

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA                   ) CAUSE NO. 3:04-CR-240-P  
  (  
vs.    )  
  ( OCTOBER 3, 2008  
  ) DALLAS, TEXAS  
HOLY LAND FOUNDATION, ET AL   ( 9:00 A.M.

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VOLUME 13 OF 37

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STATEMENT OF FACTS

BEFORE THE HONORABLE JORGE A. SOLIS  
UNITED STATES DISTRICT JUDGE  
and a jury

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1 THE COURT: Good morning. All right. Let's take up  
2 these objections.

3 Who is going to be speaking on behalf of the Defense?

4 MS. HOLLANDER: Your Honor, I think it depends.

5 THE COURT: On the exhibit?

6 MS. HOLLANDER: On the exhibit.

7 THE COURT: Okay. Let's start off with No. 94. We  
8 have a hearsay objection. Who wants to address that?

9 MS. MORENO: Is that U.N. resolution 799.

10 MS. HOLLANDER: I believe so.

11 MS. MORENO: Your Honor, I would ask you not to rule  
12 on this. This is just a mistake.

13 THE COURT: It won't come in through Agent Burns?

14 MS. MORENO: No.

15 MS. HOLLANDER: Your Honor, I think what happened  
16 was we sent the Government an initial list and then we changed  
17 our cross.

18 THE COURT: That is fine. Let's go ahead and get on  
19 to the other ones. We have No. 161 and No. 164.

20 MS. HOLLANDER: No. 161 is --

21 THE COURT: That is the one from the mayor of San  
22 Diego.

23 MS. HOLLANDER: Yes. And No. 164, the Kosovo  
24 agreement.

25 Your Honor, these all came from the Holy Land files.

1 Some of them don't have the Holy Land bates number stamps on  
2 them because -- And I think all but San Diego actually have an  
3 FBI bates number on them.

4 What happened was my law firm represented Holy Land in  
5 the civil case designation, and back in 2002 and 2003 we sent  
6 people to the FBI to search for documents. At that time our  
7 clients couldn't join us. It is all licensing issues. We had  
8 no interpreters. We mostly searched for English documents.  
9 And we brought them back.

10 The FBI knows every document we took because Lara Burns  
11 was involved with that. There is no document that we copied  
12 that the FBI didn't know about, but it was before we bates  
13 stamped them, so the Government knows these documents came  
14 from their files.

15 They are obvious on their face that they came from their  
16 files, and, I mean, if there is a problem, I will have my  
17 partner Zachrey Ives come and explain to the Court the  
18 procedure. But it really -- they are Holy Land documents. On  
19 the face they are Holy Land documents. If there is any issue,  
20 it simply goes to weight.

21 MR. JACKS: Your Honor, as to that issue,  
22 Ms. Hollander is correct in the sense that her law firm came,  
23 and I think it was in the spring of 2002, and scanned or  
24 photocopied a lot of documents, and it was before the FBI had  
25 been able to bates stamp the documents with their bates stamp.

1 The bates stamp on this document I am assuming was put there  
2 by Ms. Hollander's law firm, and it is FBI --

3 MS. HOLLANDER: That is correct.

4 MR. JACKS: -- and then a series of numbers. Well,  
5 we later bates stamped all the documents and then forwarded  
6 those documents to the Defendants, and for some reason, and I  
7 am not sure why, rather than going and finding that document  
8 with the FBI bates stamp on it, they used this copy that has  
9 their own bates stamp on it.

10 And obviously Agent Burns cannot authenticate this  
11 document. If they want to put it in through a different  
12 witness, then that is something else, but she didn't memorize  
13 all these documents, so she relies on the bates stamp to be  
14 able to testify that that came from the Holy Land documents.  
15 And they have copies of these documents with the FBI bates  
16 stamp on them.

17 Now, beyond just the source of the documents and the  
18 authentication, of course, we still object on the grounds of  
19 hearsay and relevancy.

20 THE COURT: The hearsay, do you have the original  
21 documents, the FBI? Is that what you seized?

22 MS. HOLLANDER: Yes. They have the originals.

23 MR. JACKS: Yes, sir.

24 THE COURT: I mean, through self-authentication.  
25 Certainly the second one, No. 164, that is a foreign

1 government record?

2 MS. HOLLANDER: I think that is right.

3 MR. WESTFALL: No. 164 is an agreement between  
4 several parties to provide relief to Kosovo.

5 THE COURT: That is right. Catholic Relief Services  
6 and Holy Land and some others. Yes.

7 MR. WESTFALL: And we do have the one with the HLDL  
8 number on it. In fact, my client was one of the signatories  
9 to that. So to the standpoint of hearsay it really kind of  
10 goes to the state of mind not only of him but to charity,  
11 because it is not aid to Palestine. It is not money to  
12 Palestine.

13 THE COURT: What about the authentication issue?

14 MR. WESTFALL: Well, I have seen the one with the  
15 HLDL number a number of times, and I know I can probably find  
16 it in about five minutes since it has to do with my client. I  
17 am sure it is in the computer.

18 The one -- nancy was intending to introduce this, and I  
19 guess she used that one with the FBI number. But I can have  
20 the HLDL one immediately almost, if that will solve the issue.

21 THE COURT: No. 161 appears to be  
22 self-authenticating if you have the original. That is from  
23 the mayor. It has a seal. I think that satisfies 902 as far  
24 as self-authentication, if that is the one I am thinking  
25 about. Some kind of commendation from the mayor of San Diego.

1 MS. HOLLANDER: That is No. 161.

2 MR. JACKS: Your Honor, I don't know what the  
3 certification is.

4 THE COURT: The copy I saw, it looks to have the  
5 seal. Of course you have the original. You should be able to  
6 tell on that whether that appears to be --

7 MR. JACKS: I don't know where to find the original,  
8 Your Honor. It doesn't have a bates number on it. So out of  
9 millions of pages of documents, I wouldn't be able to --

10 THE COURT: You wouldn't be able to find it very  
11 quickly?

12 MR. JACKS: Right.

13 MS. HOLLANDER: If they can't find it, I can  
14 guarantee you some of the reason we are using some of the FBI  
15 documents is we have trouble finding anything. We don't have  
16 access to the FBI files unless we go to the FBI office and  
17 search -- all of these were moved in different boxes from the  
18 way we originally looked at them in the designation. So we  
19 have to use the ones that we got. I mean, it takes hours and  
20 hours and hours to find anything on this hard drive.

21 There is no question that these came from the Holy Land  
22 files, that they go directly to showing our clients' intent,  
23 our clients' charitable work. The Government has said  
24 directly several times that this is a purported charity.  
25 Agent Burns talked about how little money we spent in foreign



1 countries and in this country. And I mean, if anything there  
2 is a weight issue, but there is just really not an issue about  
3 where these documents came from. There shouldn't be an issue  
4 with this.

5 THE COURT: Anything else on that, Mr. Jacks, on  
6 those two, No. 161 and 164?

7 MR. JACKS: I think we are talking about two or  
8 three different things. There is authenticity and there is  
9 hearsay and relevance. And --

10 THE COURT: Well, the hearsay, the public document I  
11 think would come under 803(8) if the authentication issue is  
12 resolved, and it is a public document so that would seem to  
13 take care of that.

14 MR. JACKS: Your Honor, I don't think it has been  
15 shown to be a public document.

16 THE COURT: If you have the original I think we can  
17 tell. It appears to be.

18 MR. JACKS: I don't know, Your Honor, because my  
19 understanding of the certification is you get something from  
20 the issuing authority and they say, "This is a document we  
21 issued."

22 THE COURT: But a document under seal I think is one  
23 of the ways -- a public government document under seal is  
24 self-authenticating. And you have the original. And you tell  
25 me you can't find it, so I am going to hold that against you.

1 The copy seems to be authentic, just from what I see there.  
2 So unless you can point to some way that it isn't or some  
3 reason it isn't, the way to determine that -- In my notes I  
4 have look at the original and we should be able to tell fairly  
5 easily. But if you can't produce the original and you have  
6 it, well then --

7 MR. JACKS: Your Honor, with regard to this one, I  
8 am going to withdraw the objection. I will just withdraw the  
9 objection.

10 THE COURT: If it is self-authenticating and it is  
11 what it purports to be, also that comes in within a hearsay  
12 exception. The only other would be relevance, but I think  
13 those come in for the Defense, No. 161 and 164. Those  
14 objections are overruled.

15 MR. JACKS: I am sorry, Judge?

16 THE COURT: No. 161 and 164.

17 MR. JACKS: No. 164 I don't think has -- That it is  
18 not a public document.

19 THE COURT: What is that?

20 MR. JACKS: It is some agreement for the production  
21 of bread for Kosovo refugees.

22 THE COURT: Right.

23 MR. JACKS: And it is not -- It is hearsay.

24 MS. HOLLANDER: Your Honor, it is signed by one of  
25 the Defendants.

1           THE COURT: I understand that. I think you might be  
2     able to establish it as a business record or some other way,  
3     but I don't think the agent can do that.

4           MS. HOLLANDER: Your Honor, it comes in at this  
5     point because it is relevant to exactly what she said. She  
6     said --

7           THE COURT: But Ms. Hollander, you keep confusing  
8     relevance with getting it in properly, and we have been down  
9     this road before. It doesn't come in simply because it is  
10    relevant. They have a hearsay objection. It appears to be  
11    hearsay. You have to have somebody to authenticate it as a  
12    business record. No. 161 is self-authenticating. And once  
13    you do that it also takes care of the hearsay objection.

14          How do you take care of the hearsay and authentication  
15    problems with No. 164 other than it is relevant? That doesn't  
16    take care of it, so tell me how you take care of those  
17    objections.

18          MS. HOLLANDER: It also goes to the intent of our  
19    clients.

20          THE COURT: And you still haven't answered my  
21    question.

22          MS. HOLLANDER: Then if comes in under their intent  
23    then it is not hearsay. It comes in to show the work that  
24    Holy Land --

25          THE COURT: But you are still offering it for the

1 truth. I think it is hearsay as to you. You can't offer --  
2 It may not be hearsay as to the opponent. They may be able to  
3 get it in, but you can't get your own statements in unless you  
4 have some hearsay exception. And you are offering it for the  
5 truth, that this is what they do, that they are doing this  
6 kind of work. So I don't think that will get you there. You  
7 have to get it in under a business record or some exception  
8 and you have to lay some predicate for that. Do you have a  
9 witness that can do that?

10 MS. HOLLANDER: I believe that we do, Your Honor.  
11 You know, but we can bring it in -- I think it really does fit  
12 basically the business records exception.

13 THE COURT: And I think it might, but you still have  
14 to have a witness lay that foundation. I can't assume and  
15 speculate it. You have to have somebody do it.

16 MS. HOLLANDER: Okay.

17 THE COURT: So No. 161 is in. No. 164, the  
18 objection is sustained subject to authentication and hearsay  
19 exception, prove-up.

20 No. 174?

21 MS. HOLLANDER: No. 174 is the same issue, Your  
22 Honor. This one has an FBI stamp on it. It is not the same  
23 issue as No. 164.

24 THE COURT: This is that foreign ministry. This is  
25 the one I was actually thinking of earlier. This appears to

1 be from some type of the Turkish ministry.

2 MS. HOLLANDER: This was seized from the Holy Land  
3 office, and the Government's objection is it can't be  
4 authenticated. Once again, they know this was seized from  
5 their Holy Land. We simply are using the one that we found so  
6 as not to waste thousands of hours searching for the other  
7 copy. But that is their objection, and they know that that is  
8 where we got it. They have it in their files.

9 THE COURT: Mr. Jacks?

10 MR. JACKS: Even if it came from the Holy Land  
11 doesn't authenticate it and make it true. Someone could have  
12 been, you know, creating these on the computer. So it is not  
13 authenticated.

14 THE COURT: And that is a problem with not having  
15 the original again here. If you had the original, you would  
16 be able to tell more about it in terms of does it in fact  
17 appear --

18 MR. JACKS: Your Honor, we have -- If they asked for  
19 the originals, we went and found them, and so it is not a  
20 matter of not being able to find them ever. It is just with  
21 this last minute notification. Previously when they have  
22 said, "We need the originals of these," we have located them  
23 and turned them over.

24 THE COURT: So why would it take so long. I don't  
25 know what kind of system you have. Why would it take so long

1 to find it?

2 MR. JACKS: I don't know, Your Honor. It may not.

3 THE COURT: I am going to withhold ruling on that  
4 and see if we can find that.

5 MR. WESTFALL: For the record, this Exhibit No. 174  
6 and everything up to about 1200 we didn't change the exhibit  
7 numbers in our exhibits. These were exhibits last time. And  
8 there is about 500 bankers boxes in the possession of the FBI,  
9 and that is all the originals.

10 On the standpoint of authentication, is it what it  
11 purports to be, and anything above and beyond that really kind  
12 of goes to weight. And this certainly purports to be a  
13 certificate from the Ministry of Foreign Affairs.

14 THE COURT: But it is a foreign document, and that  
15 can be a little trickier getting in a foreign document than  
16 one under a public seal under the rules. That is why I think  
17 I would rather see the original. I agree in looking at it  
18 that it appears to be, but the point is these things can be  
19 faked. Obviously somebody can make these. But if we see the  
20 original, I think if it satisfies that and purports to be, I  
21 am with you. I think it comes in. And it probably takes care  
22 of the hearsay as well. But that one, because it is a foreign  
23 document rather than a domestic document, I think I would want  
24 to see the original on that one.

25 MR. WESTFALL: And just from the standpoint of the

1 hearsay, Your Honor, these documents that have come in up to  
2 this point, it is the possession of those things that is being  
3 used against the Defendants.

4 THE COURT: Right. But by -- The opposing party can  
5 do that. It is a little different than when you are offering  
6 something that is hearsay for your benefit. The Government  
7 can offer it for intent easier than a party can offer it on  
8 their own behalf.

9 MR. WESTFALL: Once they raised that intent issue  
10 with the possession of the documents, what we seek to do is  
11 with the possession of the exact same types of documents, with  
12 the same bates numbers on them, to rebut that, to meet that.

13 THE COURT: Well, I don't know that that gets you  
14 there because of these objections that they are posing with  
15 these documents that purport to be from a foreign government.  
16 So I don't know that that gets you there, simply their being  
17 in their possession. I will withhold ruling on 174.

18 That gets down to the photographs.

19 MS. HOLLANDER: I think most of -- well, some of  
20 them are mine. Some are other people's. Some of them may  
21 be --

22 THE COURT: It is going to be the same objection?

23 MS. HOLLANDER: Well, Your Honor, maybe it is.

24 THE COURT: The Government has it lumped under one  
25 objection.

1 MS. HOLLANDER: It is under one objection. Right.  
2 These photographs, which also -- all of which, the ones that I  
3 plan to introduce, which is much smaller than that list,  
4 actually, and I don't know whether some of those are other  
5 people's or whether they are for later, which may be, they  
6 have Holy Land logo on them. There is no question about their  
7 authenticity. Several of them came in through the last trial.  
8 Can I show them to, Your Honor?

9 THE COURT: I saw them. I have gone on your disk.

10 MS. HOLLANDER: They have people who Burns can  
11 identify who are Holy Land workers. They have the Holy Land  
12 logo --

13 THE COURT: I think those that have the Holy Land  
14 logo and she can identify individuals, I think those come in.

15 MR. JACKS: Well, Your Honor, she hasn't been able  
16 to look at these.

17 THE COURT: They can show them to her and lay the  
18 predicate. If she can do that, they come in. That is what I  
19 am saying. If she can't, then you are going to have to lay a  
20 predicate some other way.

21 MS. HOLLANDER: I mean, the ones that have the Holy  
22 Land logo are pretty obvious.

23 THE COURT: They are not obvious to me and not  
24 obvious to the jury. Just get Agent Burns to testify to that.  
25 Okay? I mean, some of them were, but I can't tell that. And



1 if she recognizes Holy Land employees -- That is not obvious  
2 to me or the jury. You still need to lay your predicate.

3 If you can lay your predicate through her, I think they  
4 come in, if she recognizes Holy Land logo, employees,  
5 something like that. If you can't, then you are going to have  
6 to find some way to lay a predicate.

7 MR. JACKS: My concern is all of a sudden if she  
8 says this photograph came from the Holy Land Foundation, "Yes  
9 that is their logo; yes, I recognize that person," then beyond  
10 that she doesn't know where they were taken, when they were  
11 taken, what was going on, my concern is that through their  
12 questions that the lawyers are going to try to inject and put  
13 before the jury some evidence about that beyond what Ms. Burns  
14 can provide.

15 THE COURT: And that is certainly a valid point.  
16 Somebody want to address that?

17 MS. HOLLANDER: Your Honor, I think that clearly  
18 goes to weight. It just clearly goes to weight. These are  
19 Holy Land projects, they come from the Holy Land office, they  
20 have the Holy Land logo on them.

21 THE COURT: Right. But once you --

22 MS. HOLLANDER: That is all I am going to do is I am  
23 going to show her these pictures, show these pictures to the  
24 jury to show that Holy Land is a charity, in direct response  
25 to the Government's case. We have to be able to meet the

1 Government's case.

2 THE COURT: I understand that. But you have to  
3 still lay your predicates. You can't just come in and start  
4 saying this is relevant so it is in.

5 MS. HOLLANDER: I understand. But I think that  
6 Mr. Jacks' objections go to the weight, not the admissibility,  
7 because they are Holy Land photos found in the Holy Land files  
8 with the Holy Land logo on them, and they are projects that we  
9 can link. In other words, there is wheelchair projects and  
10 these are wheelchairs. There is a bakery project. There is  
11 no question about that. The Government knows that. There is  
12 a jillion documents on it. And there is a bakery and Holy  
13 Land workers that she can identify. I know she can.

14 THE COURT: Mr. Westfall?

15 MR. WESTFALL: Your Honor, just one point. I mean,  
16 we know that just because we get a photograph in we are not  
17 going to be able to tear off in a million different  
18 directions. I mean, we know that. And I don't think that  
19 putting a photograph in gives us the power to do that.

20 I think that if she can recognize the people, I agree  
21 with the Court's ruling on that. If she can recognize the  
22 people or some other way to say this photograph more likely  
23 than not is what it purports to be, then, you know, I agree  
24 with the Court's ruling.

25 But as per Mr. Jacks' concern, the rules of evidence

1       aren't going to allow us to do what Mr. Jacks is concerned  
2       about, and I doubt the Court would.

3               THE COURT:    Okay.

4               MR. JACKS:   Your Honor, they have been doing it.  
5       They did it in their opening statement.  And there is no  
6       question that they could probably get these in if they had a  
7       witness that could provide the information, and for some  
8       reason they are reluctant to go that route.  They want to put  
9       them in through Agent Burns.

10              And as I said, she says -- Ms. Hollander says they are  
11      photos of a Holy Land project.  There is nobody to say that.

12              THE COURT:   I agree with that.  But still if you can  
13      show through Agent Burns that there is a Holy Land logo or  
14      employees, something that connects it to the Holy Land, then I  
15      think I am going to consider that sufficient to lay your  
16      predicate.  But I am not going to let you go and start trying  
17      to go beyond her knowledge in terms of what this is through  
18      your statements of "This is obviously a wheelchair."  You can  
19      describe what the picture shows and just leave it at that.

20              You are going to have to object -- If you think they are  
21      going beyond that, you have to object and I will rule on it at  
22      that time.

23              MR. JACKS:   May I assume, Your Honor, that the ones  
24      that don't have the logo are excluded?

25              THE COURT:   Yes.  Well, and they can ask her and if

1 she can't identify anything then they haven't laid a predicate  
2 and they are not in. So I don't know which ones those are. I  
3 will let them ask the agent.

4 MR. JACKS: As long as they are not displayed to the  
5 jury on the screen.

6 THE COURT: Nothing should be displayed until it is  
7 admitted. Once we know it is admitted, those are in and we  
8 can go from there.

9 MS. HOLLANDER: Your Honor, the -- I just wanted to  
10 tell him, the photographs, I will just show her the ones that  
11 I am going to use. It doesn't apply -- some of these, and  
12 there is a large group here, and some aren't coming in now  
13 anyway.

14 THE COURT: All right.

15 MR. JACKS: Judge, there is particularly one I  
16 wanted to touch on that seems different. It is DX 1197. It  
17 has got -- The way the exhibit was delivered to us is there is  
18 a series of photographs on a rolling file, I guess. And taped  
19 underneath it with scotch tape is a caption describing what is  
20 supposed to be depicted in the picture. And I am assuming  
21 that was put there after the fact.

22 THE COURT: Okay. And I don't remember.

23 MR. JACKS: It is the one with the U-Haul truck and  
24 somebody typed underneath it and put the caption.

25 THE COURT: Do you have that, Ms. Hollander?

1 MS. HOLLANDER: I do.

2 THE COURT: Let me take a look at that. What about  
3 the caption?

4 MS. HOLLANDER: This was the way it was in the Holy  
5 Land files, and I just printed it the way it was in the file  
6 the way the Government seized it.

7 THE COURT: Mr. Jacks?

8 MR. JACKS: I would have to check and see. I have  
9 seen it, but I don't believe -- First of all, they weren't  
10 scanned and they weren't in this sequence like that. I will  
11 have to go back and look and see. But regardless, the caption  
12 is certainly hearsay.

13 THE COURT: What about that hearsay?

14 MS. HOLLANDER: I am sorry. He was telling me  
15 something.

16 THE COURT: He is objecting to hearsay as to the  
17 caption.

18 MS. HOLLANDER: Your Honor, again, I think that goes  
19 to the Government's argument of weight. It goes to show Holy  
20 Land's intent, what they were doing. It doesn't go to show  
21 even the truth, if they are objecting to it. But this is the  
22 way it was seized.

23 THE COURT: I understand. But I still think the  
24 caption is probably hearsay. I think the picture -- If she  
25 can identify the Holy Land employees, then the picture is

1 fine. But that caption is hearsay, and you are in fact, I  
2 think, offering it for the truth that that is what they were  
3 doing. I think that is why you are offering that statement,  
4 so I think it is hearsay.

5 MS. HOLLANDER: What I would like to do, Your Honor,  
6 is offer it through her with the caption covered, and then  
7 when we bring our witness in who can establish this as a  
8 business record, then we will uncover the caption.

9 THE COURT: I think if she can identify the Holy  
10 Land employees, well then --

11 MS. HOLLANDER: It has got Holy Land written on the  
12 side of the sticker.

13 THE COURT: That probably comes in without the  
14 caption until you can lay your predicate for that.

15 MS. HOLLANDER: If somebody has some of that white  
16 tape, we will put it over it before it goes to the jury.

17 THE COURT: And I have not looked at those DVDs and  
18 videos. Are you planning on getting into those today?

19 MS. HOLLANDER: We are planning on showing one  
20 today, Your Honor.

21 THE COURT: Which one is that one?

22 MS. HOLLANDER: That one is No. 1015. It is the  
23 tape "People in the Land." And it was admitted without  
24 objection in the last.

25 THE COURT: I don't have a 1015 listed.

1 MS. HOLLANDER: I don't know. I gave it to Mr.  
2 Jacks last night.

3 THE COURT: Okay. One of the new ones?

4 MS. HOLLANDER: It has been on our exhibit list.

5 THE COURT: It may be, but I don't have it on the  
6 list that I asked you to provide. It is not there. Does  
7 somebody have it? The list I received from you as to the  
8 exhibits, it is not there. So the Government didn't object to  
9 it either. They don't have it on their list.

10 MS. HOLLANDER: We sent them another list last night  
11 with this one on it.

12 THE COURT: And what is it about?

13 MS. HOLLANDER: It is a documentary about Israel and  
14 Palestine that Holy Land used in its fundraising.

15 THE COURT: I am going to have to take a look at  
16 that one.

17 MR. JACKS: Judge, it is a PBS documentary, and it  
18 is completely hearsay, and it is slanted toward the  
19 Palestinian side. And she says they used it in the  
20 fundraising. There is no evidence of that. Until somebody  
21 says that, then that threshold hasn't been crossed. But it is  
22 certainly hearsay.

23 MS. HOLLANDER: Your Honor, the Government  
24 introduced a form fundraising letter yesterday. I believe it  
25 is Government's No. 95. I mean, Holy Land Search No. 95. I

1 believe that it is a form letter signed by Shukri Abu Baker.  
2 You know, it comes with the Holy Land ads, requests for funds,  
3 and it specifically says in the letter that the Government  
4 introduced, "A remarkable video of the current situation in  
5 Palestine produced by Tom Hayes, an American journalist, will  
6 leave you breathless."

7 The Government found the documentary by Tom Hayes in the  
8 Holy Land search. That is how we got it because the  
9 Government found it. It is used for fundraising. It is not  
10 being offered for the truth. It is being offered to show the  
11 Holy Land's intent, how they raised money. The Government  
12 has --

13 THE COURT: And I have not seen that. I am not  
14 going to let you get into it until I see it. It wasn't  
15 provided in what I have, so you are just going to have to -- I  
16 will try to take a look at it over the lunch hour.

17 How long is it?

18 MS. HOLLANDER: What we did, Your Honor -- It is  
19 about I think an hour and a half video, but we made last night  
20 about a 15-minute clip of it.

21 THE COURT: Let me take a look at that over the  
22 lunch hour. Just give that to Jennifer or Brenda there.

23 MS. HOLLANDER: But the purpose, Your Honor, is  
24 strictly to show our clients' intent. The Government has  
25 introduced this letter and has also introduced various



1 fundraising activities that Holy Land did. And this was a  
2 fundraising activity that Holy Land did that they didn't show  
3 the jury.

4 THE COURT: All right. Okay. And of course, the  
5 difference that I see, the ones that the Government showed  
6 mostly involve Holy Land. This is some documentary by some  
7 other third party. Is that what you are saying? A PBS  
8 documentary? That is a concern I am having with the hearsay.

9 MS. HOLLANDER: It is not being offered for the  
10 truth so it is not hearsay. I mean, it is not being --

11 THE COURT: I think I have to disagree with you  
12 again on this one, Ms. Hollander.

13 MS. HOLLANDER: I mean, it is offered to show -- The  
14 Government has talked about how they raise money, and this is  
15 how they raised money. I mean, the Government opened the door  
16 to every bit of this with their videos.

17 THE COURT: I think opening the door to something  
18 being relevant, again, going back to that, that doesn't create  
19 an exception to the hearsay rule. That is the concern I have  
20 with that.

21 MR. DRATEL: The Government focused, particularly  
22 with respect to the letter and the fundraising matters, the  
23 letters coming from people and what went back out, this is  
24 referring to that.

25 They talk about Holy Land's message. This is Holy Land's

1 message. It is not going for the truth. It is going to what  
2 is Holy Land's message, regardless of whether it is true or  
3 not. And that goes to intent, state of mind, all the things  
4 that are exceptions to the hearsay rule and would make this  
5 admissible.

6 Thank you.

7 MS. HOLLANDER: And they are the ones who introduced  
8 this letter, and it is right in the letter.

9 THE COURT: Okay. I will take a look at that. I  
10 still don't think that does away with the hearsay, but I will  
11 look at that in light of the arguments you are making.

12 That is the only one you are planning on getting into  
13 today?

14 MS. HOLLANDER: It is the only one I am planning on  
15 getting into. I don't know if anybody else is planning on  
16 showing any videos.

17 THE COURT: So what is the number of this one?

18 MS. HOLLANDER: No. 1015.

19 THE COURT: Okay. All right. Mr. Jacks, what about  
20 that argument that this goes to intent, state of mind, rather  
21 than --

22 MR. JACKS: Your Honor, there is no evidence that  
23 this is indicative or reflective of their state of mind. If  
24 someone were to take the witness stand and say something, that  
25 might get them there, if one of the Defendants were to say

1     this is indicative of that, but out-of-court statements to  
2     show a person's state of mind, a Defendant's state of mind, is  
3     a very narrow exception and it has to be almost simultaneous  
4     with the event or the other statement that is being looked at.  
5     So just to broadly say that everything that was found at the  
6     Holy Land Foundation shows their state of mind is not an  
7     exception to the hearsay rule.

8             MR. DRATEL: Two things. I don't think the rule --  
9     The rule does not distinguish between defendants and  
10    non-defendants with respect to state of mind, and I don't  
11    think the case law does either. But even notwithstanding  
12    that, even if that were the rule, there is a simultaneous.  
13    That letter shows that it is their state of mind because they  
14    are using that to fundraise. They are saying, "Watch this."

15            THE COURT: The problem I am having, this is a  
16    statement, out-of-court statement, and it is what -- they have  
17    introduced this letter from Mr. Baker and the HLF tapes. That  
18    is their statements and so that is what takes it out of the  
19    hearsay. You don't have that here. You are trying to offer  
20    something by PBS.

21            MR. DRATEL: But it is not for the truth. It is to  
22    show -- They are talking about Holy Land's message. They are  
23    suggesting that because these letters are coming back about  
24    jihad and all these other things --

25            THE COURT: But this is somebody else's statement as

1 to what Holy Land was doing, see.

2 MR. DRATEL: But it is Holy Land's message. It is  
3 not for the truth. It is to show what they tried -- how they  
4 tried to raise money. Mr. Abu Baker says -- You know, they  
5 have Holy Land sending books to people that were not written  
6 by Holy Land. I mean, we have an entire trove of things --

7 THE COURT: But they adopted them by sending out.

8 MR. DRATEL: And they adopted this by sending it  
9 out.

10 THE COURT: But you are offering your own client's  
11 statements. What I am saying, it comes in -- you are still  
12 offering your own client's statement to show this state of  
13 mind out of court. That is not the same as the opposing party  
14 offering it against an opposing party.

15 MR. DRATEL: I think it is. I don't think the cases  
16 make any distinction that hearsay from a defendant for state  
17 of mind is still an exception to the hearsay rule. It does  
18 not -- And there are cases that I can find for the Court that  
19 are legion on that.

20 THE COURT: You might want to work on finding those  
21 legion cases, then.

22 MS. CADEDDU: Your Honor, I just want to clarify one  
23 thing, if I may. The letter that Ms. Hollander is referring  
24 to that says, "Here, hear watch," the Government introduced it  
25 yesterday.

1           THE COURT: Right. But it is a letter from  
2 Mr. Baker.

3           MS. CADEDDU: It is already in evidence.

4           THE COURT: It is in evidence, but that still  
5 doesn't open up everything -- In terms of opening up an area  
6 for relevance is what I am saying, it doesn't do away with the  
7 hearsay exceptions. You still have to -- It may open up an  
8 area for questioning, but you still have to satisfy the rules  
9 of evidence in getting evidence in. We have a hearsay  
10 objection. That is what I am dealing with.

11          I don't want to spend too much time on this. We are  
12 already late with the jury.

13          MS. CADEDDU: Can I just ask, you said it is your  
14 client's statement that is hearsay, and I understood you to  
15 say the statement in the letter, which is already in.

16          THE COURT: Not the statement. The letter is in,  
17 but now we are going to a further statement.

18          MS. CADEDDU: But that is not the statement of the  
19 Defendants. That is something they sent out for fundraising,  
20 so it is not their statement.

21          THE COURT: It is a third party statement is the  
22 point I am making. At the time the letter came in, that was  
23 the Defendant's statement from the Government's perspective.

24          I don't want to spend too much time on this. We will get  
25 back on it.

1 All right. One last word?

2 MR. MYSLIWIEC: Just since we are on it and it is in  
3 this context, yesterday, or earlier, the Government admitted a  
4 newspaper article to explain the meaning of the Defendants'  
5 conversation, you know the Hamas article in the Dallas Morning  
6 News. They put in this letter that was sent to Mr. Mahmoud  
7 and they gave a meaning to this letter. Well, this videotape  
8 is like the newspaper article that they put in.

9 THE COURT: I don't see it as the same, because the  
10 conversation quoted verbatim, which is the reason I let that  
11 newspaper article, it quoted virtually all of the substantial  
12 substantive portions of the that editorial. It was already  
13 in. This does not quote anything. It just refers to it by  
14 title. It is just not the same thing.

15 And like I say, I have heard enough on that. We need to  
16 move on, because I don't want to keep this jury --

17 MR. WESTFALL: I don't anything on that, Your Honor,  
18 but there are a couple of other videos in there. I don't want  
19 to get lost in the shuffle.

20 THE COURT: I asked which ones we are going to get  
21 into today or this morning. Any others you are planning on  
22 getting into this morning?

23 MR. WESTFALL: I am not going to be cross examining  
24 this morning.

25 THE COURT: Then we don't need to be worrying about

1 it.

2 MR. WESTFALL: Very well. Defense Exhibit No. 1013,  
3 this is that map. Is it a map of the West Bank?

4 MS. HOLLANDER: I believe it is already in evidence.

5 THE COURT: I thought it was, maybe through Doctor  
6 Levitt. It seems like something like that came in. At least  
7 it was shown. I don't know if it is in evidence.

8 MS. HOLLANDER: We moved it into evidence.

9 THE COURT: You might want to take a look at that.  
10 It has been shown.

11 No. 1019. Well, you said that has already been admitted.

12 MR. JACKS: I don't understand the purpose of  
13 introducing it with a Defendants' sticker on it. And I didn't  
14 put them side by side to see if there was additional  
15 information put in there.

16 THE COURT: How are you getting this -- What is  
17 the -- You are wanting it with your own exhibit number? It is  
18 already in evidence.

19 MS. HOLLANDER: Which one are you referring to?

20 THE COURT: No. 1019.

21 MS. HOLLANDER: We are not using it, Your Honor.

22 THE COURT: You are withdrawing it?

23 MS. HOLLANDER: For Burns at least. And No. 1013  
24 was admitted on the 23rd of September.

25 THE COURT: No. 1013 was admitted, that map?

1 MS. HOLLANDER: Yes.

2 THE COURT: So that will be admitted.

3 No. 1020, progress report of victims' families?

4 MS. HOLLANDER: I don't think we are using that. I  
5 can tell you, of the things I am putting in, the only ones  
6 they object to on theirs are --

7 THE COURT: We are almost through here. Who is  
8 putting in No. 1020? Who is offering that? It is on the  
9 list.

10 MR. MYSLIWIEC: This may have been one we put on in  
11 an abundance of caution, so I will defer on that one.

12 THE COURT: Okay. And then No. 1047, this amended  
13 declaration of Mr. Baker.

14 MS. HOLLANDER: That was just a total error.

15 THE COURT: You are withdrawing that one?

16 MS. HOLLANDER: Because we have -- the corrected one  
17 is in evidence.

18 MR. JACKS: Judge, there was a series before that.

19 THE COURT: Yes. I missed that. You are right.  
20 Those CAIR action alerts?

21 MR. DRATEL: Yes. They are faxes to Mr. El-Mezain,  
22 just like the faxes they put in. They are designed, not for  
23 the truth, but to show the type of material that he received.

24 THE COURT: Why is that relevant?

25 MR. DRATEL: They make it seem like his fax machine



1 was just all these -- Judge Fish let these in for this precise  
2 reason.

3 THE COURT: I don't see how they are relevant, so  
4 you have to convince me how they are relevant, not that Judge  
5 Fish let them in.

6 MR. DRATEL: I understand. But the relevance was to  
7 show they were received, to show other types of material he  
8 got on his fax machine. They are putting in one very narrow  
9 piece which are these IAP faxes.

10 THE COURT: Because it is relevant to the case. I  
11 wouldn't let them put in something that wasn't relevant, and  
12 the same rule applies to you. It has to be relevant.

13 MR. DRATEL: It is relevant. It is another  
14 organization that he gets material from that is similar. It  
15 is Islamic. It talks about issues that go on in the Islamic  
16 community. It shows the type of stuff that he gets by fax  
17 just by sitting there. It is not a question of him --

18 THE COURT: I am sure he gets a lot of things by  
19 fax, but it is not all relevant.

20 Mr. Jacks?

21 MR. JACKS: That is our point. Plus, what is  
22 contained within it is hearsay.

23 THE COURT: That is true. I will sustain the  
24 objection to those, No. 1023, 1025, 1029, 1030, and 1033. It  
25 is hearsay, as well, and I don't see those as relevant.

1           No. 1047 we have addressed.

2           No. 1048, you say you may not have any objection. It is  
3 a passport.

4           MR. JACKS: Correct, Your Honor. I am not sure -- I  
5 don't remember how that came -- Was it in the possession of  
6 the Government?

7           MS. CADEDDU: That is another one of the ones -- Are  
8 we talking about Mr. Abdulqader's passport? That is one of  
9 the ones we put on two days ago because it was something I  
10 went through last time. It came in based on some testimony of  
11 Agent Burns that I don't know that she has given this time.  
12 So I don't know that it will come in.

13           THE COURT: Okay. We can wait until we get there on  
14 that one, then.

15           The last one that I show, next to the last one, No. 1057.  
16 It looks like a corrected translation. Who is offering that  
17 one?

18           MS. HOLLANDER: We can withdraw that at this time.

19           THE COURT: Okay. And then No. 1069, some Wales and  
20 England committee finding on Interpal.

21           MS. HOLLANDER: That is not coming in at this time.

22           THE COURT: Okay. Withdrawing that one.

23           My list that I had from you only went through No. 1320,  
24 exhibit No. 1320. So the last few that you have -- and there  
25 is some objections to those. I haven't seen them yet. I just

1 got the disk this morning, so I have to take a look at those.

2 MR. DRATEL: There were two that are on mine that I  
3 certainly won't be doing this morning.

4 THE COURT: Okay. We will deal with those later.

5 MS. MORENO: Your Honor, there is one of mine. It  
6 is Defense Exhibit No. 1334, which I guess you do not have,  
7 but it is --

8 THE COURT: I have it now, but I just got the disk  
9 this morning when I got on the bench, so I haven't had the  
10 opportunity to look at that.

11 MS. MORENO: I don't think there is an objection  
12 from the Government.

13 THE COURT: If there is no objection, you are all  
14 right.

15 MS. MORENO: I just wanted to alert the Court.

16 THE COURT: The ones where there are objections,  
17 obviously I can't rule on them without seeing them.

18 MS. HOLLANDER: Your Honor, there are two that we  
19 have given the Government and added to our exhibit list, No.  
20 1336 and No. 1337. They are both documents involving the Holy  
21 Land wheelchair programs, and these are two of them again that  
22 bear the FBI stamps because they received them from Holy Land.

23 THE COURT: But I haven't seen them is the problem.  
24 I need to take a look at them. Those are disks that I got  
25 this morning, so I haven't had the opportunity to look at

1       them, and I don't want to make a ruling until I have seen  
2       them.

3               MS. HOLLANDER: I wanted to let you know their  
4       objection to those is that they --

5               THE COURT: That same issue we have been discussing.

6               MS. HOLLANDER: Right. And I can assure the Court  
7       they came from the files. That is why we put the stamp on  
8       them.

9               MR. JACKS: We also objected on hearsay grounds.

10              THE COURT: I understand. That is why I want to  
11       look at them. I can't make that determination without seeing  
12       them.

13              Anything else, then, on those issues before we bring the  
14       jury in?

15              Are you ready, Mr. Jonas?

16              MR. MYSLIWIEC: Your Honor, I am going to be out for  
17       this morning.

18              THE COURT: All right.

19              Go ahead and bring in Agent Burns.

20              And go ahead and bring the jury in.

21              (Whereupon, the jury entered the courtroom.)

22              THE COURT: Ladies and gentlemen of the jury, good  
23       morning. We are ready to proceed.

24              Mr. Jonas.

25              MR. JONAS: Thank you, sir.

1 Q. (BY MR. JONAS) Agent Burns, good morning.

2 A. Good morning.

3 Q. If you recall, yesterday we finished with you going  
4 through the financial schedules of payments between the Holy  
5 Land Foundation and certain zakat committees in the West Bank.  
6 Do you recall that?

7 A. I do.

8 Q. Are you going to be able to come back later in this trial  
9 and testify in greater detail regarding the relationship  
10 between the Holy Land Foundation and those zakat committees?

11 A. Yes, I am.

12 MR. JONAS: Your Honor, I pass the witness.

13 THE COURT: And Ms. Moreno, I believe you stated you  
14 were first?

15 MS. MORENO: Yes. Thank you, Your Honor.

16 CROSS EXAMINATION

17 By Ms. Moreno:

18 Q. Good morning.

19 A. Good morning.

20 Q. How are you?

21 A. I am fine, thank you.

22 MS. MORENO: May it please the Court.

23 Q. (BY MS. MORENO) Agent Burns, you have been testifying  
24 for about a week now about a myriad of documents. Correct?

25 A. That is correct.

1 Q. And let's see. You have described searches and bank  
2 accounts. Correct?

3 A. That is correct.

4 Q. And you have created PowerPoints for the jury based on  
5 underlying documentation?

6 A. That is correct.

7 Q. You have commented on videos and lectures. Correct?  
8 That you have found in the evidence?

9 A. That is correct.

10 Q. You have even read some poetry and identified certain  
11 pamphlets and certain journals for the jury. Correct?

12 A. That is correct.

13 Q. Let's take a look in terms of the journals.

14 MS. MORENO: And I am going to be using the elmo  
15 only, Your Honor.

16 THE COURT: All right.

17 Q. (BY MS. MORENO) HLF Search No. 108.

18 A. Okay.

19 Q. I am going to describe it to you. I am sure you will  
20 recognize it as soon as I put it on the elmo. First of all,  
21 do you see that?

22 A. I do.

23 Q. All right. And you recognize that as a journal that was  
24 seized, a copy of a journal that was seized from the Holy Land  
25 Foundation. Correct?

1 A. That is correct. Can you scroll down so I can see which  
2 one it is?

3 Q. It says, if you will accept my word, it says HLDL 111.

4 A. Okay. What was the HLF search exhibit number?

5 Q. No. 108.

6 A. Okay.

7 Q. Do you remember seeing this document?

8 A. I do.

9 Q. It was admitted during your testimony.

10 A. I do.

11 MR. JONAS: Your Honor, I am sorry. Just real quick  
12 sidebar on this one issue regarding this.

13 (The following was had outside the hearing of the  
14 jury.)

15 MR. JONAS: Your Honor, she is using a copy from the  
16 last trial. It has the old exhibit number on it. My only  
17 concern is that there were no -- We admitted a redacted  
18 version of this, and I wanted to make sure we are not going to  
19 get into pages that aren't admitted.

20 MS. MORENO: We aren't.

21 MR. JONAS: Also I don't know if you want --

22 MS. MORENO: I will show you the exhibit so you can  
23 check on it.

24 MR. JONAS: No, I trust you. I just wanted to make  
25 sure there is no confusion, because you are asking her about

1 the exhibit number, and the number on the screen is different.  
2 And I am also concerned about reference to the prior trial.

3 MS. MORENO: Well, I said HLF Search No. 108, and  
4 she identified it, and then I directed her attention to the  
5 bates number seized from the Holy Land office. She identified  
6 that.

7 THE COURT: What is the exhibit number of this  
8 trial? Do you know?

9 MS. MORENO: HLF Exhibit No. 108.

10 THE COURT: What is on the screen is different. I  
11 think I was noticing that.

12 MR. JONAS: I want to make sure there is no  
13 confusion to the jury and that nothing comes out about the  
14 prior trial and page numbers --

15 MS. MORENO: Let me show you the exhibit.

16 MR. JONAS: I am not making any accusations.

17 MS. MORENO: Okay. I know that.

18 MR. JACKS: Is there a reason we are not using a  
19 copy?

20 MS. MORENO: I didn't have it for some reason. That  
21 is what I had.

22 MR. JONAS: We can put it on the screen, if you  
23 want.

24 THE COURT: Well, let's go with this. Hopefully  
25 this won't be an issue, but let's see what happens.



1 MS. HOLLANDER: I don't think there is any way the  
2 jury can identify this.

3 THE COURT: Probably not.

4 MS. MORENO: The whole document is in evidence.

5 MR. JACKS: But that is not the exhibit.

6 MS. HOLLANDER: That page is in your exhibit.

7 MR. JACKS: That item she is showing is not in  
8 evidence, not that version of it.

9 MS. MORENO: Yes, it is.

10 MR. JACKS: No, it is not.

11 MR. JONAS: We will get the original, Your Honor.

12 THE COURT: Go ahead and pull the original.

13 MR. JONAS: And Ms. Moreno can use that.

14 MS. CADEDDU: The problem here is, as the Court told  
15 us, and we tried to prepare using the documents that we had  
16 before, we didn't get the Government's the CDs of any of their  
17 exhibits until the Friday before trial, so we have tried to  
18 prepare in advance, and we have done the best we can, and in  
19 some cases have the old exhibits. That is just by virtue of  
20 the fact that we don't have them.

21 MS. HOLLANDER: They didn't send their exhibits when  
22 they sent their list. We got them later, only after we asked  
23 for them.

24 MR. JONAS: It is very simple. Let's just use the  
25 one that is admitted.

1 THE COURT: Do you want to use the one that is  
2 admitted?

3 MS. HOLLANDER: It has that page on it.

4 MR. JONAS: It has the pages which is has been  
5 admitted, which is not the full version, and it also has the  
6 incorrect exhibit stickers. There is a simple solution.

7 MS. MORENO: It has that first page, which Mr. Jacks  
8 says it does not.

9 MR. JACKS: I didn't say that. That first page has  
10 an exhibit sticker on it that is not in evidence.

11 THE COURT: That is what you were saying is not the  
12 same.

13 MR. JACKS: Right.

14 THE COURT: Okay. I took it like you took it.

15 MS. MORENO: That page is in evidence. We will use  
16 that exhibit.

17 THE COURT: You are just concerned about that  
18 sticker. All right. Okay.

19 (The following was had in the presence and hearing  
20 of the jury.)

21 MS. MORENO: Can you pull up HLF Search No. 108,  
22 please?

23 Q. (BY MS. MORENO) I just want to talk about the exhibit.  
24 Okay. HLF Search No. 108. Do you see that?

25 A. I do.

1 Q. Okay. I think that you read a particular page, the  
2 Government had you read a particular page from this exhibit,  
3 but let's take a look at the different articles.

4 MS. MORENO: Can the jury see that?

5 Q. (BY MS. MORENO) This first page indicates Middle East  
6 Affairs Journal summer/fall 1996-1416. Do you see that?

7 A. Actually we can't see that. That part is not viewed on  
8 the screen. I saw it a second ago, but right now I don't  
9 think we can see that part. If you just move it a little bit  
10 it will --

11 MS. MORENO: May I approach the witness, Your Honor?

12 THE COURT: Yes.

13 THE WITNESS: Now we can see it. Thank you.

14 Q. (BY MS. MORENO) All right. You agree with the date?

15 A. I do.

16 Q. Okay. And the first article says, "Islamic Movements at  
17 the End of the 20th Century," does it not?

18 A. It does.

19 Q. That is written by someone named Michael Collins Dunn.  
20 Correct?

21 A. That is what it says.

22 Q. The next says, "How Dangerous are the Islamists?" written  
23 by Nader Hashemi. Correct?

24 A. Yes.

25 Q. Let's take one last one. " Hamas' Military Operations:

1 Resistance or Terrorism?" by Khaled al-Hroub. Do you see  
2 that?

3 A. I do.

4 Q. All right. Now, if you turn to the next page, you see  
5 listed a board of advisory editors. Do you see that?

6 A. I do.

7 Q. And on this board for this journal that was seized from  
8 the Holy Land, we see a number of names from some prestigious  
9 American universities. Correct?

10 A. There are names and universities listed, yes.

11 Q. Dr. William Zartman from Johns Hopkins University. Do  
12 you see that?

13 A. I do.

14 Q. Do you see Dr. Louis Cantori from the University of  
15 Maryland?

16 A. I do, on the right side.

17 Q. USA. Correct?

18 Dr. Bruce Lawrence from Duke University USA. I am  
19 pointing to it.

20 A. Yes.

21 Q. All right. And the very top Dr. John Entelis from  
22 Fordham University USA?

23 A. Yes.

24 Q. Would you agree with me that these are some of the more  
25 prestigious universities in the United States?

1 A. I don't know how these universities are ranked, but they  
2 are universities in the United States.

3 Q. You have heard of Duke?

4 A. Yes.

5 Q. And heard of Fordham?

6 A. I am not familiar with where Fordham is.

7 Q. And this is the board of advisory editors for this Middle  
8 East Affairs Journal.

9 A. That is what it says.

10 Q. Right? And this is the document that you testified to?

11 A. That is correct. That came from the HLF search warrant.

12 Q. Do you have any reason to doubt that this is not the  
13 board of advisory editors for the Middle East Journal?

14 A. That is what the document says. I don't have any  
15 personal knowledge of whether or not these individuals  
16 actually sat on the board.

17 Q. Okay. Now, would it surprise you that in your testimony  
18 over the last week that you have actually discussed over a  
19 couple of hundred exhibits that were admitted?

20 A. That sounds about right.

21 Q. About 250, I think.

22 A. I didn't count them, but that sounds about right. That  
23 wouldn't surprise me.

24 Q. We are not going to go through 250 exhibits.

25 A. Okay.

1 Q. I am sure everyone is grateful for that. But I would  
2 like to go over some of the evidence that is unique to Mr.  
3 Elashi.

4 A. Okay.

5 Q. And first I would like to begin with a volume of evidence  
6 to orient the jury on exactly how much we are talking about  
7 here.

8 I think you indicated that you have been on the case for  
9 the last seven or eight years; since 2001. Is that correct?

10 A. That is correct. Since December of 2001.

11 Q. You have described the search, the seizure of documents  
12 as filling 500 to 600 boxes. Is that right?

13 A. That is correct.

14 Q. And you have observed perhaps not the content, but you  
15 have seen at least the number of thousands of videotapes in  
16 connection with this case. Correct?

17 A. Video and audiotapes, yes.

18 Q. Video and audiotapes. Thousands of them. Right?

19 A. Correct.

20 Q. And some of the searches you were present for and some  
21 you were not present for. Correct?

22 A. That is correct.

23 Q. And in fact, the investigation in this case was  
24 international in scope. Is that right?

25 A. Yes, it was.

1 Q. It was in Europe. Correct?

2 A. I am not sure -- I want to be clear about what you are  
3 asking. The HLF had connections internationally. Therefore,  
4 our investigation inherently involved looking at individuals  
5 in other countries, but I am not sure what you are asking when  
6 you ask me specifically about Europe.

7 Q. Your investigation in this case was international in  
8 scope. Right?

9 A. I think I just said yes, we looked at their international  
10 connections.

11 Q. Germany. You looked at some evidence in Germany --

12 A. Yes. The HLF --

13 Q. -- in this case. Yes?

14 A. The HLF had connections in Germany.

15 Q. I think Sweden or the Netherlands or other places like  
16 that, and France. Correct?

17 A. I am not sure what you are -- I don't recall any  
18 investigation that we did in France.

19 Q. England?

20 A. Yes, we obtained records from England.

21 Q. Okay. But the biggest contributor of evidence from a  
22 foreign country in this case is the government of Israel.  
23 Correct?

24 A. We obtained a number of documents from the government of  
25 Israel. I don't know in comparison what the volume of that

1 would be compared to what we received from England, but I  
2 believe it was more.

3 Q. Would you say that the government of Israel, after the  
4 United States investigation, that the government of Israel  
5 documents that are going to be in this case surpassed the  
6 documents, in terms of volume, from any other country?

7 A. I believe that the number of foreign government exhibits  
8 that we are showing here today, that there are more of those  
9 from the government of Israel than from the other foreign  
10 countries.

11 Q. Okay. In fact, one of the first exhibits on the first  
12 day of this case was, do you know, Government of Israel No. 1?  
13 It was a videotape seized in Israel?

14 A. I am familiar with the videotape.

15 Q. Back to the volume a minute, Agent Burns.

16 A. Okay.

17 Q. The Holy Land offices were searched in Texas, New Jersey,  
18 and California, and Chicago?

19 A. That is correct.

20 Q. Okay. And then you -- Then the searches involved Mr.  
21 Elbarasse's home. Correct?

22 A. That is correct.

23 Q. And Mr. Mushtaha's backyard?

24 A. That is correct.

25 Q. And Mr. Ashqar's home?



1 A. That is correct.

2 Q. Any other searches I have left out?

3 A. The InfoCom.

4 Q. And the InfoCom searches. Correct. Thank you.

5 A. That is correct.

6 Q. Any other searches?

7 A. I don't believe we discussed any other ones.

8 Q. Okay. And these documents and these videos that we have  
9 seen in this case and will see in this case are labeled by the  
10 FBI. Correct? Bates numbers, I think you called them.

11 A. Yes. For the most part they have the bates numbers on  
12 them.

13 Q. And the bates numbers are also unique to the particular  
14 search, meaning the geographical location.

15 A. That is correct.

16 Q. So for the Dallas search we would see HLDL. Right?

17 A. That is correct, on the bates number.

18 Q. And for New Jersey what would we see?

19 A. HLNK.

20 Q. And for San Diego, California what would we see?

21 A. HLSD.

22 Q. And for Chicago?

23 A. HLCG.

24 Q. And in terms of the searches for the documents and the  
25 evidence retrieved from InfoCom?

1 A. Those begin with SW.

2 Q. And the Elbarasse searches?

3 A. I believe that is ISE-SW.

4 Q. And Mushtaha's backyard?

5 A. I don't believe -- Because most of those were videotapes,  
6 we didn't bates stamp videotapes.

7 Q. So I think -- Are those just labeled video or V something  
8 with a number?

9 A. I can't recall exactly how they were labeled, but we  
10 didn't bates stamp videotapes.

11 Q. Okay. Now, besides the searches, you had other tools for  
12 your investigation, including surveillance. Correct? That  
13 you have testified to?

14 A. That is correct.

15 Q. And before we get to that, let's talk a little bit about  
16 the wiretaps in this case, so we can be clear. How many years  
17 were the wiretaps in place?

18 A. Well, we have discussed a number of different wiretaps,  
19 and there were different times for each of those.

20 Q. Let's, instead of breaking it down like that, just give  
21 me a range from the very beginning of the first wiretap to the  
22 end of the last wiretap. What years are we talking about?

23 A. Well, again, as I said, there were different years for  
24 the different wiretaps, and I am not positive about the dates  
25 on all of them, but I will give you what I can.

1 I know that for the Defendant Mohammad El-Mezain,  
2 coverage of his line began at some point in 1994 and extended,  
3 with gaps, through I think 2003. And the wiretaps of the  
4 Defendant Shukri Abu Baker started possibly '94, '95, and  
5 ended in approximately 2001. Again, I was not present during  
6 these, so I may have these dates a little off. But generally  
7 this is what my understanding is.

8 For the Defendant Mufid Abdulqader, there were  
9 approximately eight months total of coverage, but there was a  
10 gap in a couple of months in that coverage.

11 As far as the HLF, there was not extensive coverage of  
12 that entity. That I think began in 2000 or so and lasted for  
13 maybe until they were shut down.

14 Q. And Mr. Ashqar?

15 A. He was either the first or second wire -- He and Muin  
16 Shabib were covered in the very early years, so those were  
17 around 1993, 1994. They did not extend past 1995, I don't  
18 believe.

19 Q. So you think it was about a year for each of those,  
20 Ashqar and the Shabib?

21 A. Approximately.

22 Q. Okay. Now, it is true that my client Ghassan Elashi, he  
23 was never wiretapped. Correct?

24 A. He was captured on wiretaps, but he himself was not the  
25 subject of a FISA wiretap.

1 Q. Meaning that his home was not wiretapped. Correct?

2 A. That is correct.

3 Q. Okay. And so there are no FISA wiretap warrants for  
4 Ghassan Elashi in this case. Right?

5 A. That is correct.

6 Q. All right. But you did capture him in conversations with  
7 others where the wiretaps were running?

8 A. Yes.

9 Q. And in fact, we have seen a couple of those already  
10 captured on Mr. Abu Baker's wiretaps. Correct?

11 A. That is right.

12 Q. All right. The total amount of phone calls -- And I am  
13 going to include the Philadelphia meeting because Mr. Elashi's  
14 voice is heard there as well. Correct?

15 A. That is correct.

16 Q. Would you agree with me that it is, in this case anyway,  
17 the number of phone calls where you will hear Mr. Elashi's  
18 voice, are under ten?

19 A. That we are presenting here today? I did not count them,  
20 so I don't know for sure how many he is in. I didn't count  
21 them.

22 Q. Does that figure sound right to you?

23 A. I would hate to guess on the stand so I would like to  
24 look through them. I am not saying you are wrong, but I have  
25 not counted them so I don't really have an idea how many he is

1 in, because I am not the only witness testifying.

2 Q. Right. But you are the case agent in this case.

3 A. Right. But I didn't testify regarding all of the  
4 conversations that may include your client.

5 Q. Well, you read the FISAs. Right?

6 A. I did.

7 Q. Okay. In fact, you have read about 9600 summaries of  
8 FISAs. Correct?

9 A. That sounds about right.

10 Q. So you are familiar with the phone calls where Mr. Elashi  
11 is captured. Correct?

12 A. That is correct. But he was captured on a lot of calls.  
13 We are just playing a few.

14 Q. Right. Because you are using the calls that you believe  
15 are relevant to the crimes in this case. Right?

16 A. For efficiency purposes, we limited the amount of calls  
17 put here today so we all wouldn't be here for an extended  
18 period of time.

19 Q. So you are holding back on phone calls in this case?

20 A. I would not say that we are holding back on phone calls.  
21 You have all of them available to you. I think that they were  
22 all made available to you.

23 Q. You are putting into evidence in this case, Agent Burns,  
24 those phone calls where Mr. Elashi's voice is captured that  
25 you believe are relevant to this indictment. Correct?

1 A. That is correct.

2 Q. The surveillance, you have got a couple of photographs of  
3 my client from the Philadelphia meeting. Correct? We saw a  
4 couple of those photographs.

5 A. Yes.

6 Q. All right. And those photographs were taken about 15  
7 years ago.

8 A. Yes; 1993.

9 Q. October 1993?

10 A. That is correct.

11 Q. Fifteen years this month.

12 A. That is correct.

13 Q. Okay. And I think on a video that was played a few days  
14 ago, I think you pointed out Mr. Elashi walking out of the  
15 screen past the camera angle. Do you remember that?

16 A. I do. That was a 1990 festival in L.A.

17 Q. 1990 festival. Let's talk about some of the evidence in  
18 this case, and I am just going to break it down in terms of  
19 some documents and some bank accounts.

20 A. Okay.

21 Q. First of all, you know what the designation dates are,  
22 which are highly relevant in this case. You have testified  
23 about those. Correct?

24 A. That is correct.

25 Q. All right. And January 23rd, 1995 is important why?

1 A. That is the date that Hamas was designated as a specially  
2 designated terrorist.

3 Q. And October the 8th of 1997 is also significant. Why is  
4 that?

5 A. Because that is the date that Hamas was designated as a  
6 foreign terrorist organization.

7 Q. And on December the 4th of 2001, Holy Land ceased to  
8 operate. Do you agree?

9 A. Yes.

10 MS. MORENO: May I approach, Your Honor?

11 THE COURT: Yes.

12 Q. (BY MS. MORENO) So do you see those dates?

13 A. I do.

14 Q. All right.

15 MS. MORENO: Your Honor, I would like to offer into  
16 evidence Defense Exhibit No. 1334, which is a timeline labeled  
17 "time frame between Hamas designation and HLF closing."

18 THE COURT: It is No. 1334?

19 MS. MORENO: Yes, Your Honor.

20 THE COURT: That is admitted.

21 MR. JONAS: No objection as a demonstrative.

22 THE COURT: I have it on the paper that you said no  
23 objection, so that is admitted.

24 Q. (BY MS. MORENO) Okay. One of the -- What I would like  
25 to do on the next number of exhibits is focus just simply on

1 the time, the time period of these documents, according to  
2 either what you have dated them to be by the content or what  
3 they have expressly indicated is the date. All right?

4 A. Okay.

5 MS. MORENO: And I am going to be using the elmo for  
6 all of these, Your Honor.

7 Q. (BY MS. MORENO) Let's start with Elbarasse Search No. 1.  
8 Do you see that?

9 A. I do.

10 Q. And this particular document is dated November 9th, 1991.  
11 Correct?

12 A. Correct.

13 Q. And within it it discusses certain supplements, and those  
14 are dated, and they are all predated 1991. Correct?

15 A. They predate the November 1991 date.

16 Q. Right. And the first one starts, "Supplement No. 1, the  
17 substance of the long-term plan (1987)." Do you see that?

18 A. That is correct.

19 Q. Okay. So that is 1991. Now, remember the lecture that  
20 was played in Elbarasse Search No. 2? Do you see that?

21 A. I do. I think we actually read this one.

22 Q. You read portions of it. Do you recall?

23 A. I do.

24 Q. "Ikhwan in America, Zeid." Do you see that?

25 A. Yes.



1 Q. Now, this is 1982. It was dated 1982. Do you recall  
2 testifying to that?

3 A. I believe that was it. I think we thought either 1982 or  
4 1983, but very early '80s.

5 Q. Elbarasse Search No. 3. Do you see that?

6 A. I do.

7 Q. Okay. And I believe this was determined -- "Strategic  
8 goal for North America." And that was dated May 22, 1991.

9 A. Correct.

10 Q. Now, Elbarasse Search No. 4, do you see that?

11 A. I do.

12 Q. And this is a document dated December 18th, 1988.

13 Correct?

14 A. Correct.

15 Q. Do you see that?

16 Let's go to Elbarasse Search No. 5. Let me show you this  
17 sticker so you can see that. Yes?

18 A. I do.

19 Q. Okay. And you remember testifying to all these Elbarasse  
20 search documents. Right?

21 A. I do.

22 Q. And this one is -- It says "Islamic Action for Palestine,  
23 an internal memo, October 1992." Correct?

24 A. Correct.

25 Q. Elbarasse Search No. 7. Do you see Elbarasse Search No.

1 7?

2 A. I do.

3 Q. This document, December of '91. Do you see that?

4 A. I believe -- Well, it is April 2nd, 1991 is the actual  
5 date.

6 Q. And then underneath it it says December?

7 A. It does.

8 Q. April 21st, 1991, and then it says "outgoing #: 12/91"?

9 A. Yes, it does.

10 Q. Now Elbarasse Search No. 8, you testified, and this  
11 involves Mr. Elashi. Let's talk about this a minute.

12 Elbarasse Search No. 8. Do you see that?

13 A. I do.

14 Q. And it says "Occupied Land Fund report." Correct?

15 A. It does.

16 Q. There is no date on this one. Do you recall?

17 A. I do.

18 Q. Okay. So we don't know when this was created.

19 A. Based on the content of the document, you can determine  
20 it happened in 1991.

21 Q. '91. Okay. And I think you pointed out on page 6 "The  
22 Central Committee for charity work:

23 "Brother Ghassan is currently on a visit to Britain  
24 representing the Fund in order to study the possibility of  
25 forming a Central Committee for charity work." Do you see

1     that?

2     A.    I do.

3     Q.    And I think you read that to the jury or you commented to  
4     the jury.

5     A.    Yes, we read it.

6     Q.    Okay.  And where did he go in Britain and who did he  
7     speak to?

8     A.    Other than the content of the letter, I don't know.  We  
9     did not have surveillance on that meeting so I don't know  
10    exactly with whom he met.  It says the brothers.  I would  
11    presume Muslim Brotherhood members in England to discuss,  
12    again, the creation of a Palestine Committee there just like  
13    the one here.

14    Q.    Okay.  So you presume that he went to England to meet  
15    with Muslim Brotherhood members.

16    A.    Based on the content of that.  As I said, I do not know  
17    with whom he met.

18    Q.    And you don't know if he even went to Britain, do you?

19    A.    I think there are records that we don't have here that  
20    indicate that he did travel in 1991 there, but we have not  
21    discussed them here.

22    Q.    And these are records that you have withheld from this  
23    case?

24    A.    No, ma'am.  I think you have all the records that are in  
25    our possession.

1 Q. When did he go to Britain?

2 A. As I said just a minute ago, I am not sure exactly when  
3 he went and I don't know who he met with. This is their  
4 report.

5 Q. Are you sure that he went to Britain?

6 A. Based on their report he did, unless they lied in their  
7 report.

8 Q. When you say "their report," you mean?

9 A. The Holy Land Foundation, yes.

10 Q. Let's talk about Elbarasse Search No. 10 for a minute.  
11 You have referred to this chart a number of times. Do you see  
12 Elbarasse Search No. 10?

13 A. I do.

14 Q. And this is the Central Committee organization chart for  
15 the year 1991.

16 A. That is correct.

17 Q. And let's go to page -- I think it says 7 of the  
18 document. And it has a number of names and different  
19 organizations. Do you see that?

20 A. I do.

21 Q. And where is Mr. Elashi's name on this chart?

22 A. Ghassan Elashi's name is not on this document.

23 Q. It is not on this document. Let's go to the next page.  
24 Does Mr. Elashi's name appear there?

25 A. No, it does not.

1 Q. But there is a Ghassan Dahduli there. Correct?

2 A. That is correct.

3 Q. Who is Ghassan Dahduli?

4 A. He was one of the other attendees at the Philadelphia  
5 meeting who was also a member of the Palestinian Committee and  
6 worked with the IAP.

7 Q. Okay. Now, in fact, I think that you used this  
8 chart -- Let me get this right. You were asked about an  
9 individual Issam Al-Sarraj. Do you remember that?

10 A. I do.

11 Q. Okay. And you were asked a question about who he was,  
12 and you referred to this chart and you said there he is, No.  
13 21. There he is--Issam Al-Sarraj?

14 A. I recall pointing to his name, yes.

15 Q. But you used this chart as an indication of who these  
16 people were with respect to the committee. Correct?

17 A. This chart, the Ashqar one, and the Philadelphia meeting,  
18 yes.

19 Q. You used this chart to locate Mr. Al-Sarraj's name?

20 A. When asked about him, yes.

21 Q. When asked about him. All right. And this is the  
22 Central Committee organization chart. That is what it says.  
23 Right?

24 A. It does.

25 Q. Now, so far we have seen two people named Ghassan.

1 Correct? Ghassan Elashi and Ghassan Dahduli.

2 A. That is correct.

3 Q. And both were at the Philadelphia meeting. Correct?

4 A. That is correct.

5 Q. Ghassan Salah Dahduli, he gave a report at the  
6 Philadelphia meeting. Do you recall that?

7 A. He did.

8 Q. And Mr. Elashi did not give a report at the Philadelphia  
9 meeting. Do you recall?

10 A. He spoke during the Philadelphia meeting, but I do not  
11 recall that he recited a report.

12 Q. Right. So you don't recall that he gave a report.  
13 Correct?

14 A. That is correct.

15 Q. So when the documents in this case refer to Ghassan, one  
16 has to look at the context to determine which Ghassan it is if  
17 the last name is not included. Would you agree?

18 A. If the last name is not there, then you need to look to  
19 the context to determine who is who.

20 Q. Okay. All right. Elbarasse Search No. 9. Do you see  
21 that, Agent Burns?

22 A. I do.

23 Q. And again, this is a 1991-1992 document, according to the  
24 document itself.

25 A. That is correct.

1 Q. Now, Elbarasse Search No. 11. Do you see that?

2 A. Yes, I do.

3 Q. And this is a 1989 internally dated document. Correct?

4 A. Correct.

5 Q. All these documents thus far are years before the  
6 designation of Hamas. Correct?

7 A. That is correct.

8 Q. Okay. Now, Elbarasse Search No. 13. Let me show it to  
9 you quickly. Do you see that?

10 A. I do.

11 Q. And this one indicates it is an annual report dated '89  
12 to 1990. Correct?

13 A. Correct.

14 Q. Do you know who authored this particular document? Do  
15 you remember this document?

16 A. If you can turn to the next page, I believe this was the  
17 Palestinian Committee report which was authored by someone  
18 within the committee, but as I recall there is no author  
19 noted.

20 Q. Right. So we don't know who authored this report.

21 A. We don't know the individual who actually drafted the  
22 document.

23 Q. Correct. We have Elbarasse Search No. 14. I am showing  
24 you the sticker.

25 A. I see that.

1 Q. And this document refers to events "preparing work  
2 program for 1992," so we know it is 1992 or before. Correct?

3 A. Correct.

4 Q. Now, here is a document again that discusses my client,  
5 Elbarasse Search No. 15. Do you see that?

6 A. I do.

7 Q. And this is dated February 22nd, 1991. Correct?

8 A. Correct.

9 Q. And then there is a number of items listed. Do you see  
10 that?

11 A. I do.

12 Q. Now, this says in No. 7 that "Mr. Elashi will commit to  
13 working four hours daily at the Fund as public relations  
14 supervisor in compensation for \$1500 monthly." Correct?

15 A. It does.

16 Q. And then he is mentioned again in No. 10, "Brother  
17 Ghassan Elashi will pay \$17,000 to the financial controller of  
18 the Central Committee." Do you see that?

19 A. I do.

20 Q. There is no evidence that any of that happened with  
21 respect to Mr. Elashi that you have found. Correct?

22 A. I did not find records indicating that he received the  
23 money, but that is not determinative because I don't have all  
24 the records as they were dated.

25 Q. You have not seen any evidence that Mr. Elashi did any of



1     these things or received these amounts of money.

2     A.     I didn't find any checks for \$1500 monthly, no.

3     Q.     So that would be -- You didn't find any evidence of that.  
4     Correct?

5     A.     That is what I said.

6     Q.     Okay. Now, I think in your -- Mr. Jonas had you look at  
7     HLF Search No. 5. Do you recall that?

8     A.     I do.

9     Q.     And that is -- appears to be on Occupied Land Fund  
10    letterhead. Correct?

11    A.     It does.

12    Q.     All right. What is this in the center?

13    A.     It is a symbol or their symbol of Palestine to include  
14    Israel.

15    Q.     What is in the middle of that? Can you tell?

16    A.     It looks like a plant, maybe wheat.

17    Q.     Okay. And what is the -- Can you read what is in English  
18    under "the Occupied Land Fund"?

19    A.     It says up on the top, "The parable of those who spend  
20    their possessions in the sake of God is that grain of  
21    which" -- I am having a hard time. I think that says  
22    "...grows seven ears in every year a hundred grains. For God  
23    gives manifold increase to whom He wills, and God cares for  
24    all and knows all things."

25    Q.     Okay. And this is entitled "the board meeting minutes."

1 Correct?

2 A. Correct.

3 Q. And this is dated the first meeting 1991 in Los Angeles,  
4 California. Correct?

5 A. Yes. It says February 16th through 18, 1991.

6 Q. Now, this document, Elbarasse Search No. 15--I just want  
7 to be clear that I am showing you the first page--this doesn't  
8 have a logo on it. Correct?

9 A. That is correct.

10 Q. Okay. And it doesn't have that same parable that you  
11 just graciously read for us. Correct?

12 A. No, it doesn't.

13 Q. And in fact, it begins with this salutation "In the name  
14 of God the beneficent the merciful." Correct?

15 A. That is correct. It was actually, if you look at the  
16 last page, drafted by the Central Committee, "Your brothers,  
17 head of the Central Committee."

18 Q. I understand. And that salutation does not appear on the  
19 Occupied Land Fund board meeting. Right?

20 A. Not on the English version, no.

21 Q. And these are also pre-1995. Correct?

22 A. That is correct.

23 Q. Let's go to Elbarasse Search No. 16 and 17. Now, this  
24 Elbarasse Search No. 16, this is also a 1990 document.  
25 Correct?

1 A. Correct.

2 Q. Elbarasse Search No. 17. Let me first show it to you and  
3 then I want to ask you a little bit about it. This is a  
4 document that is signed or it is indicated the words Seven Up,  
5 and above it I says 7/20. Correct?

6 A. Correct.

7 Q. When you were asked on direct who is Seven Up, you don't  
8 know who Seven Up is.

9 A. No, I don't.

10 Q. So you don't know who authored this.

11 A. You can tell it came from Hamas, but someone used a code  
12 word to sign his name so we don't know.

13 Q. And you can tell it came from Hamas because of the  
14 content that is why it came from Hamas?

15 A. Yes. You can see they are requesting \$100,000 for pieces  
16 of metal for the Ezz Eddin al-Qassam Brigades.

17 Q. And we don't know who wrote this and who it was written  
18 to, according to this document?

19 A. As I said, I don't know the identity of the author.

20 Q. And you don't know who it was written to, according to  
21 the document.

22 A. I know that it was found in a section of documents  
23 belonging to Mousa Abu Marzook in the Elbarasse search  
24 warrant.

25 Q. It was not found at the Holy Land Foundation.

1 A. That is correct.

2 Q. Or InfoCom.

3 A. That is correct.

4 Q. Now, this, along with some other documents, make up your  
5 Demonstrative No. 8, I believe.

6 A. I can't recall the number, but I will take your word for  
7 it on that one.

8 Q. Okay. And this involves the Islamic Relief Committee.

9 A. It does.

10 Q. Correct? Your Demonstrative No. 8. Do you recall that  
11 now?

12 A. It does.

13 Q. And the Islamic Relief Committee is a committee that you  
14 have testified about. Correct?

15 A. That is correct.

16 Q. And in fact, I think you made a summary chart about the  
17 Islamic Relief Committee.

18 A. Yes, we did.

19 Q. Okay. Now, in this indictment, and the charges against  
20 my client and these other gentlemen, the Islamic Relief  
21 Committee does not appear. Correct?

22 A. I don't believe that it does.

23 Q. Right. It is not a charged count in the indictment.  
24 Right?

25 A. It is not.

1 Q. It is not an overt act in the indictment. Correct?

2 A. That is correct.

3 Q. So, in fact, if you looked through the entire indictment,  
4 you would never see the word Islamic Relief Committee. Right?

5 A. I don't recall that the Islamic Relief Committee appears  
6 at all, and I know it was not part of a count.

7 Q. Now, this Islamic Relief Committee, this is an Israeli  
8 charity meaning that it is based in Israel. You know that.  
9 Right?

10 A. It was located in Um El-Fahem which is within Israel, but  
11 it was closed down in 1996, I believe.

12 Q. Okay. I didn't ask you when it was closed down. And I  
13 may ask you that, but now I am asking you, was it located in  
14 Israel. And what is your answer to that question?

15 A. I am sorry. I thought you said is it located in Israel.  
16 At the time it was operating it was in Israel.

17 Q. It was in Israel. Okay. And do you know that it was  
18 established in 1991?

19 A. I don't know the exact date that it was established.

20 Q. So you don't know the history of the committee?

21 A. I have read it in some of the HLF documents, but I don't  
22 recall offhand the date of the creation.

23 Q. Okay. Now, in terms of your Demonstrative No. 8, let's  
24 talk a little bit about context. Okay?

25 A. Can we put it up so I can see it?

1 Q. Well, this is what I am talking about, this  
2 demonstrative. Do you remember this?

3 A. I do. I think there were two pages to it, so just to be  
4 clear which exhibits we are speaking about.

5 Q. Just where the Islamic Relief Committee is mentioned.  
6 And we are talking about the year 1992.

7 A. Correct.

8 Q. Okay. So let's stay with 1992. In 1992, how long had  
9 the Intifada been going on?

10 A. The Intifada began in December of 1987.

11 Q. So it was going on for five years?

12 A. Almost, at that time.

13 Q. And this is the first Intifada. Correct?

14 A. That is correct.

15 Q. Now, how long in 1992 had the West Bank and the Gaza  
16 Strip been occupied by Israel?

17 A. The uprising was in December of 1987 as a result of the  
18 occupation, so the occupation had been existing at that point.

19 Q. Do you know when the occupation began?

20 A. I am not an expert on the issue of Israeli occupation, so  
21 I don't feel comfortable speaking about it.

22 Q. Does the Six Day War ring any bell?

23 A. It does.

24 Q. 1967. So do you agree with me that at least since 1967  
25 Israel has been occupying the West Bank and Gaza up until

1 1992?

2 A. That is correct. Israel was created in 1948, and I know  
3 there were a number of battles between then and --

4 Q. I am asking you about the beginning of the occupation of  
5 the West Bank and Gaza from 1967. Do you agree that in 1967  
6 those areas were occupied by Israel?

7 A. I know that Israel had a presence in those areas. As I  
8 said, I am not an expert on Israeli occupation, so I do not  
9 feel comfortable testifying at length about it.

10 Q. When you say a presence, what do you mean by that?

11 A. As I stated, I am not an expert on Israeli occupation, so  
12 I do not feel comfortable -- I don't know the extent of  
13 Israeli presence --

14 Q. Well, you just told the jury --

15 THE COURT: Ms. Moreno, she says she doesn't know  
16 much about that. Get onto is something that she knows about.

17 Q. (BY MS. MORENO) So you don't know about the occupation.

18 A. I know that Israel had a presence, but I am not  
19 comfortable speaking about the extent of it, as I am not an  
20 expert in that area.

21 Q. Okay. The Project 236 that you mentioned in connection  
22 with the Islamic Relief Committee, do you remember testifying  
23 about that?

24 A. I do.

25 Q. And you said that you had looked through the documents in

1 Project 236.

2 A. That is correct.

3 Q. All right. And you said that it was confusing to you and  
4 that the numbers didn't add up. Do you remember that  
5 testimony?

6 A. Yes.

7 Q. Now, the documents in 236 also include a number of  
8 documents from the Red Cross. Do you recall that?

9 A. They do.

10 Q. Okay. And the Red Cross was involved with that Project  
11 236 in some fashion or another.

12 A. I don't know that I would say that they were involved.  
13 They had issued certificates of security detention for  
14 individuals who had been detained by the government of Israel.  
15 So I don't know that the Red Cross -- I don't know what their  
16 involvement was, other than to print those certificates saying  
17 "These individuals are under arrest."

18 Q. So in Project 236 you saw documents evidencing the Red  
19 Cross and some sort of involvement, you don't know what it  
20 was, in that project.

21 A. If you want to, we can look at one of the certificates  
22 and see, but what it is is the certificate of detention  
23 appeared to have been printed by the Red Cross. Other than  
24 that, I am not aware of their involvement.

25 Q. And you saw that in Project 236?



1 A. If we can pull it up then I can say for sure.

2 MS. MORENO: May I have a moment, Your Honor?

3 THE COURT: Yes.

4 MS. MORENO: Your Honor, there were so many  
5 documents, may I approach the witness with --

6 THE COURT: Sure.

7 Q. (BY MS. MORENO) The 21st Century demonstrative.

8 A. Yes. This is what I was talking about.

9 Q. Can you describe it for the jury?

10 A. Yes. I wish we could put it on the screen for them to  
11 see. In the documents, along with the applications for the  
12 families, generally there were attached a document and it had  
13 a stamp on it and it said, "To whom it may concern: According  
14 to the records of the International Committee of the Red  
15 Cross, Mr. and Ms."--and then it has the name, it tells where  
16 they are from--"was arrested by the authorities for reasons  
17 related to security on"--and it gives the date, and it tells  
18 how long they were sentenced for, and where they are presently  
19 detained.

20 Q. And this is representative of the kind of Red Cross  
21 documents that you saw in Project 236. Would that be fair?

22 A. Yes. There are a number of those documents in that  
23 project.

24 Q. Thank you. By the way, on this Islamic Relief  
25 Committee --

1 MS. MORENO: May I approach, Your Honor?

2 THE COURT: Yes.

3 Q. (BY MS. MORENO) Showing you what has been marked as  
4 Defense Exhibit No. 963, which is the blocking list.

5 A. Okay.

6 Q. Okay? And when you talk about designation, you are  
7 really referring to this list, are you not; the list that is  
8 before you?

9 A. I am not referring to this list. This is a list of  
10 entities that had been designated. This particular list is  
11 dated June 29, 2001, so this list provides, you know, a  
12 listing of all the entities on that date that were designated  
13 as a terrorist, whether it is a specially designated terrorist  
14 or a foreign terrorist organization.

15 Q. Right. Is the Islamic Relief Committee a designated  
16 terrorist organization on that list?

17 A. I don't believe the Islamic Relief Agency is listed  
18 individually under here. It would probably fall underneath  
19 the Hamas designation, but I don't believe it is individually  
20 listed in this. I will confirm. It is not listed  
21 individually.

22 Q. And when you look at the Hamas designation, if you could  
23 turn to the Hamas designation, underneath it you don't see the  
24 Islamic Relief Committee. Correct? That is not in there.

25 A. It says Hamas, aka Islamic Resistance Movement, and gives

1 several other names for it. That designation would include  
2 any part of Hamas.

3 Q. Right. The Islamic Relief Committee, the name of the  
4 committee is not on the list.

5 A. The name of the committee is not on the list.

6 Q. So the committee is not a designated terrorist  
7 organization according to the United States. Correct?

8 A. As I said, the individual committee's name is not on this  
9 list.

10 MS. MORENO: May I approach?

11 THE COURT: Yes.

12 Q. (BY MS. MORENO) Here is another document, Elbarasse  
13 Search No. 19. Do you see that?

14 A. I do.

15 Q. It is a document you testified about that is in evidence.  
16 Correct?

17 A. Correct.

18 Q. And again, we are talking about July 30th, 1994,  
19 according to its own internal indication. Right?

20 A. That is correct.

21 Q. Elbarasse Search No. 31. Do you see that?

22 A. I do.

23 Q. Okay. Again, this is internally dated 1988. Correct?

24 A. Correct.

25 Q. Elbarasse Search No. 35. I believe it is right there.

1 A. It is.

2 Q. Okay. And we are looking at the dates now. June 10th,  
3 1992?

4 A. That is correct.

5 Q. Now, is it fair to say that all -- When was the Ashqar  
6 search?

7 A. In December of 1993.

8 Q. Okay. So it is fair to say that all of those documents  
9 and any of that evidence that was retrieved from Ashqar  
10 predates the designation of Hamas.

11 A. Yes. All of the Ashqar search documents would have been  
12 December 1993 or before.

13 Q. So all of that Ashqar evidence, however much it is, that  
14 you have testified about the last week, that all predates the  
15 designation date.

16 A. Correct.

17 Q. Let's talk a little bit about context again. HLF Search  
18 No. 7. Do you remember testifying about this document?

19 A. I do.

20 Q. Okay. And your attention was directed to this income by  
21 year and these numbers next to it.

22 A. Correct.

23 Q. Do you remember that?

24 A. I do.

25 Q. Now, this was found in a computer. Correct?

1 A. In an HLF computer, yes.

2 Q. In an HLF computer. Right?

3 A. Correct.

4 Q. Where was this document used or filed?

5 A. I don't know where it was used.

6 Q. Okay. So you don't know if it was ever used.

7 A. I don't know.

8 Q. You don't know if it was a draft. Right?

9 A. All I can say is that the document title was found on the  
10 computer when the computer was seized in 2001.

11 Q. That is all you can say about this document.

12 A. I don't know how they used it.

13 Q. Okay.

14 MS. MORENO: If I may use one of the boards?

15 Q. (BY MS. MORENO) This is Government's Exhibit Bank  
16 Accounts. It is a summary of bank accounts that has been  
17 used, and there is a number of accounts on there. Do you  
18 agree?

19 A. I agree.

20 Q. And not all of the accounts actually have been discussed  
21 in this case, but let's just talk about the ones that have.

22 Now, all of the Occupied Land Fund -- What is missing  
23 from this chart are dates. Right?

24 A. There are no dates on this.

25 Q. No dates on here. So the Occupied Land Fund NAIT series,

1     that all predates the designation.   Correct?

2     A.    Yes.

3     Q.    Those documents do?

4     A.    That is correct.

5     Q.    Okay.  A number of the HLF bank accounts, not all of  
6     them, but a number of them predate the designation date.

7     Correct?

8     A.    I know that a number of the bank records that we had in  
9     other bank accounts included transactions that occurred prior  
10    to the designation, but without refreshing my memory and  
11    actually looking at all the account records I would not want  
12    to state that a number of these bank records in general  
13    predate the designation.

14    Q.    Now, you with say the Marzook accounts predate the  
15    designation.

16    A.    The records we discussed regarding the Marzook  
17    transactions did predate the Hamas designations.  I can't  
18    recall if there are some records in those bank accounts that  
19    postdate the designation or not.  I would need to refresh my  
20    memory.

21    Q.    There are nine accounts indicated as belonging to Mr.  
22    Marzook.  Correct?

23    A.    Correct.

24    Q.    On this chart?

25    A.    That is correct.

1 Q. Okay. And the zakat committee bank accounts, we really  
2 haven't gone into them yet. Right?

3 A. We have not. He introduced them yesterday, but we have  
4 not discussed them.

5 Q. And we are going to go into that when you come back?

6 A. That is correct.

7 Q. So I will save my cross on that issue, then.

8 The charts that you prepared called OLF 1988, OLF 1989,  
9 obviously predate the designation. Right?

10 A. That is correct.

11 Q. The payments to IC Gaza, Islamic Center of Gaza, they  
12 also predate the designation. Correct?

13 A. That is correct.

14 Q. The videos, let's go back to the context issue on the  
15 videos. I am not going to discuss the videos too much. I  
16 think Ms. Cadeddu might get into those. But certainly a  
17 number of the videos that we have seen also predate the  
18 designation.

19 A. Yes, a number of them do.

20 Q. InfoCom Search No. 56, HLF Search No. 71, Mushtaha Search  
21 No. 1 and 6, and others, some of them are 1988, 1991, 1990.  
22 Right?

23 A. That is correct.

24 Q. Now, let me just ask you, on those videos that were  
25 played, there is interspersed at times on some of the videos

1     what appears to be documentary footage. Do you recall?

2     A. I know what you are talking about, yes.

3     Q. And that appears to be scenes of fighting. Correct?

4     A. That is what it appears to be. I don't know exactly  
5     where the footage came from or who within the IAP put that in  
6     there.

7     Q. Those scenes appear to be fighting. Correct?

8     A. They do.

9     Q. And those scenes appear to depict persons, children  
10    throwing stones. You saw that. Right?

11    A. I saw people throwing stones, yes.

12    Q. And you also saw Israeli soldiers in those documentary  
13    pieces. Correct?

14    A. I saw what appeared to be Israeli soldiers. Again, I am  
15    not sure where the footage came from.

16    Q. And you saw what appeared to be in some of those cuts  
17    Israeli tanks. Correct?

18    A. That is what they appear to be.

19               MS. MORENO: Your Honor, at this time I want to move  
20    into a phone call, a 106 phone call that has been agreed to  
21    with the Government.

22               THE COURT: All right.

23    Q. (BY MS. MORENO) This is Baker Wiretap No. 37. Do you  
24    see that?

25    A. I do. I think it has an old exhibit sticker on it.



1 Q. Sorry.

2 A. Okay. Thank you.

3 Q. No. 37. Do you see that?

4 A. I do.

5 Q. And it was played for the jury, but not all of it was  
6 played for the jury.

7 A. Okay. Correct.

8 Q. Right? So this particular call ended on page 7. Do you  
9 remember that?

10 A. I do.

11 Q. It says by Mr. Elashi. Do you see that?

12 A. I do.

13 Q. Can you read pages 8 and 9 to the jury?

14 A. Okay. SH is Shukri Abu Baker and GH is Ghassan Elashi.

15 Shukri Abu Baker says, "Yeah. Definitely, definitely."

16 Ghassan Elashi says, "So, they cannot tell me  
17 because -- they cannot say that because a Muslim kills he is a  
18 terrorist and when they kill it is their right."

19 Shukri: "Hmm, hmm. Yeah, yeah. In the worst case  
20 scenario, this is, what you call it. This is an internal  
21 civil dispute. If we speak using their civilized language, an  
22 internal civil dispute between two people, and we have nothing  
23 to do with it in the country, to encourage the government, the  
24 U.S. government to side with a particular party, this  
25 is -- This is a very, very special case where two people are

1 struggling for the same land."

2 Ghassan: "Yeah."

3 Shukri: "And two people, if you can consider these  
4 people are using terrorist tactics, then Israel has -- has  
5 been established on terrorist tactics from the beginning."

6 "Exactly."

7 "From The beginning, I mean. So if a Jewish person has  
8 the right to come to this country, a Palestinian person also  
9 have the right, too, to come to this country."

10 "Yeah, yeah."

11 "So, even Mousa has the right to live in that country."

12 "Yeah, yeah, yeah, yeah. Because we didn't see that they  
13 deported none of the Jewish groups, not even one of those  
14 criminals. On the contrary, they fled, went and came, those  
15 people charged and Alex Odeh. Israel has not -- America has  
16 not extradited."

17 "It is harboring. He sits there today."

18 "Yeah, yeah."

19 "Doesn't Israel harbor terrorists?"

20 "Yeah, it does. Yeah, it is possible that a person  
21 speaks up in this country, but I'm not worried about north  
22 Texas, south Texas. I'm not worried about nothing. One  
23 should let it slide. This is possibly an attempt to respond  
24 to -- to open --"

25 "I'm not going to respond to -- about the Foundation or

1 north Texas."

2 "Yeah, yeah, yeah."

3 "I'm talking about the philosophical basic of the  
4 argument."

5 "Yeah, yeah, yeah."

6 "There is no argument. This is a Steve Emerson article."

7 "Yeah, yeah."

8 "And also on what basis does the article talk about the  
9 deportation?" What evidence does the writer of the  
10 editorial --"

11 "Aha."

12 "What is the evidence? Can you tell us what the evidence  
13 is?"

14 "Exactly. Right."

15 "Or is it that, from now on, any person that Israel  
16 dislikes, I mean, has to leave the country? Let Israel submit  
17 a list of all the people it does not want so that they could  
18 leave America. This will be a precedent. This won't -- I  
19 mean, this won't weaken terrorism. This will strengthen  
20 terrorism everywhere when Israel begins to intimate the lives  
21 of people, American citizens and green card holders even in  
22 America. This means who is ruling America? That is the  
23 question. Who is ruling America? And -- And what right does  
24 Israel have to demand the deportation if there is no evidence  
25 and says, 'Yes, deport it. Deport him.' Why? And it was

1 issued a warrant for the arrest 6 days after his detention in  
2 New York."

3 "Yeah, yeah, yeah."

4 "What is this? If they had something against him,  
5 wouldn't they have issued a warrant for the arrest long time  
6 ago?"

7 "Yes, yes. It is an opportunity it couldn't miss".

8 "What?"

9 "An opportunity that landed in its lap. An opportunity  
10 for Israel to distract eyes from its problems and stuff."

11 Q. All right.

12 MS. MORENO: Your Honor, with respect to those two  
13 additional pages, there is an agreement with the Government  
14 that it will be part of the original exhibit, Government  
15 Exhibit No. 37.

16 THE COURT: With the Baker Wiretap No. 37? And you  
17 are in agreement that this will be added to it?

18 MR. JONAS: Yes.

19 THE COURT: It is admitted.

20 MS. MORENO: I just have a final question.

21 Q. (BY MS. MORENO) Agent Burns, you testified extensively  
22 about the Philadelphia meeting. Do you remember that?

23 A. I do.

24 Q. And there was a portion of the Philadelphia meeting that  
25 was played that included something that my client said, which

1 was excerpt 14-E. Do you recall that?

2 A. I don't recall which excerpt it was. I would like to  
3 look at it if we are going to talk about it.

4 MS. MORENO: May I approach?

5 THE COURT: Yes.

6 THE WITNESS: Thank you.

7 THE COURT: You said excerpt 14-E of what exhibit,  
8 counsel?

9 MS. MORENO: Philadelphia Meeting 14-E.

10 Q. (BY MS. MORENO) Do you recall that?

11 A. I do.

12 Q. Okay. Now, you told the jury -- There was a long passage  
13 where Mr. Abu Baker had been talking, and it ended with -- The  
14 last sentence I believe of that passage he says, "Our  
15 relationship with everyone must be good regardless." Do you  
16 see that last sentence?

17 A. I do.

18 Q. Okay. And then you told the jury that my client  
19 responded, "Including the Islamists, of course."

20 A. That is what it says.

21 Q. Right. And you know that that is incorrect.

22 A. I believe it should have been corrected to say,  
23 "Including the Muslims, of course."

24 Q. Because you know there is a difference between Islamists  
25 and Muslims.

1 A. Yes, there is.

2 Q. All right. And so he said, "Including the Muslims."  
3 Right?

4 A. I believe there was a correction on the translation.  
5 This does not say that, so I would like to confirm that the  
6 corrected copy of the translation actually said Muslims. But  
7 I recall seeing something about that.

8 MS. MORENO: May I approach?

9 THE COURT: Yes.

10 THE WITNESS: That is what I was thinking of.

11 Q. (BY MS. MORENO) Okay. So in fact Mr. Elashi did not say  
12 "Including the Islamists." He said, "Including the Muslims."  
13 Right?

14 A. That is correct. This should have been corrected.

15 Q. And Mr. Abu Baker also did not say the Islamists. He  
16 also said the Muslims. Correct?

17 A. I believe, if I could see that again, but I believe in  
18 the corrected version he still said the Islamists. Okay. The  
19 third instance -- He did say it, but the first time he said it  
20 was supposed to be Muslims, and the second time he said  
21 Islamists.

22 Q. So in that particular passage where you told the jury  
23 that my client said Islamists, that was incorrect?

24 A. That is correct. The transcript was wrong.

25 Q. And when you indicated that Mr. Abu Baker in the

1 immediate response used the word Islamists, that was also  
2 incorrect.

3 A. Correct. He said Muslims first and then he said  
4 Islamists.

5 Q. And that was a translation that came from Mr. Shafik.  
6 Correct? The original false translation came from Mr. Shafik.

7 A. I think that he had done the original translation, and he  
8 also made the corrections after some discussion with the  
9 parties, I believe.

10 Q. All right.

11 MS. MORENO: I have nothing further, Your Honor.

12 THE COURT: All right. Let's go ahead and take the  
13 morning break. Let's be back at 11:00.

14 (Whereupon, the jury left the courtroom.)

15 THE COURT: Who is up next? Ms. Hollander? Okay.  
16 We will be back at 11:00.

17 (Brief Recess.)

18 THE COURT: Ms. Hollander?

19 MS. HOLLANDER: Thank you, Your Honor.

20 CROSS EXAMINATION

21 By Ms. Hollander:

22 Q. Good morning, Agent Burns.

23 A. Good morning.

24 Q. You testified that you have reviewed the majority of the  
25 documents from the Holy Land Foundation. Correct?

1 A. That is correct.

2 Q. And you have had them now since 2002 really, all the  
3 documents.

4 A. The ones from the Holy Land search, yes.

5 Q. Right. And so you have been through them and through  
6 them and through them. Would that be fair to say?

7 A. I and a lot of other people. There are a lot of  
8 documents.

9 Q. Right. Many of them were in Arabic. Correct?

10 A. Yes.

11 Q. And so you had to sit with your translator to work your  
12 way through those. Correct?

13 A. Actually the way we had it done, we would have the  
14 translators go through and initially conduct what we call a  
15 triage of the boxes, and generally gives a summary of what  
16 they were. And we would go from there and determine what  
17 needed to be translated verbatim and things like that. So we  
18 didn't actually sit with them while they were reviewing them.

19 Q. So the translators made an initial judgment about what  
20 was pertinent in that triage. Correct?

21 A. They were given instructions on what to look for, yes.

22 Q. But they made the initial judgment based on their  
23 instructions. Correct?

24 A. Correct.

25 Q. Now, you have also mentioned, just so we get it straight,



1     that some people use what we refer to, and I am not sure it is  
2     proper, as an Abu name.  Correct?

3     A.    That is correct.

4     Q.    And it is a custom to refer to the name of your eldest  
5     son as Abu and then the name of the eldest son.  Correct?  For  
6     men?

7     A.    That is correct.

8     Q.    And you have said that Shukri Abu Baker, my client, is  
9     sometimes referred to as Abu Mohamed?

10    A.    That is correct.

11    Q.    And you are aware that he has daughters.  Correct?

12    A.    I am.

13    Q.    Right.  So Mohamed was a child who died.  Correct?

14    A.    I don't have any personal knowledge of that.  I think you  
15    have mentioned that to me before, but I don't -- I am not  
16    personally aware of what happened with that matter.

17    Q.    You are aware that he doesn't have any living son named  
18    Mohamed.  Correct?

19    A.    That is correct.

20    Q.    Now, I am going to want to talk to you for a little while  
21    about the Philadelphia meeting.

22    A.    Okay.

23    Q.    And that meeting occurred over the course of three days.  
24    Correct?

25    A.    It did.  I think the actual meeting began on Saturday and

1 finished on Sunday, but they arrived on Friday.

2 Q. Right. So you have -- Actual recordings were marked by  
3 date and tape number. Correct?

4 A. I believe that is correct.

5 Q. Right. So, for example -- We are going to have to use  
6 the elmo, because I don't have access to all of these on here,  
7 but I think we will be able to get this to work here.

8 A. Okay.

9 Q. I will just have to put it on and then talk to you about  
10 it, because nobody can hear me if I am over there.

11 A. Okay.

12 Q. So bear with me a moment.

13 For example, if we look at this one, it says Government  
14 Exhibit Philly Meeting No. 8. Correct?

15 A. Correct.

16 Q. And then it has an audio file, too. Right?

17 A. Yes, up there.

18 Q. And if you can't read it I will read it to you. It says  
19 MTGB\_19931003\_3.WAV. Right?

20 A. It does.

21 Q. So that is how you know -- I mean, that is how you link  
22 it to the audio file. In other words, it is -- 19931003 would  
23 be the 3rd of October and then No. 3.

24 A. I believe that is correct, but I didn't personally deal  
25 with any of the technical aspects of it, so I would rather

1 someone technical speak to that for certain. But that seems  
2 to stand to reason.

3 Q. Okay. The Government put these markings on basically so  
4 you could identify them and keep them in order. Right?

5 A. I believe that is why the audio file designator is on  
6 there. But again, I didn't put that on there, so I am not  
7 sure.

8 Q. But the purpose is to keep them in order.

9 A. That is correct.

10 Q. Okay. But even though you have this way of keeping them  
11 in order, when you look at the Government's exhibits that you  
12 have introduced -- that the Government has introduced of the  
13 Philadelphia files, they are not in chronological order, are  
14 they?

15 A. I believe that the way that they are exhibited puts them  
16 in chronological order. I can't state for certain because I  
17 didn't actually put the exhibits in their final order and I  
18 don't know exactly what that audio file .WAV represents. Like  
19 I said, that is a technical issue that the technical people  
20 dealt with. I believe that they should be in chronological  
21 order and that they are. But if you have something different,  
22 I would be happy to look at it.

23 Q. Well, let's look -- That one is Philly Exhibit No. 4, and  
24 it is .WAV file 11. Right? I am sorry. Philly Exhibit No. 4  
25 and it is .WAV file 15. Correct?

1     A.     Correct.  I can read what it says.  But again, I don't  
2     know what the .WAV files necessarily mean, so I don't know if  
3     that means it is .WAV file 15.  I see it says  
4     MTGB\_19931002\_15.WAV, but I don't know exactly what that  
5     indicates.

6     Q.     Fine.  We will get at it a different way here in a  
7     minute.

8            But you agree with me that for the jury to follow the  
9     conversations they ought to all go in order.  Right?

10    A.     Yes, they should.

11    Q.     Okay.  Now, the Government introduced 18 Philadelphia  
12    files.  Correct?

13    A.     That sounds right.

14    Q.     But in fact there were 24 tapes.  Correct?

15    A.     I don't know the exact number of tapes.  I know that  
16    there were some of the hotel room phone calls that were  
17    transcribed, very short conversations for the night before  
18    that probably aren't included in the actual meeting  
19    transcript, if that is what you are talking about.  But I am  
20    not sure of exactly how many tapes there were.

21    Q.     Okay.  Well, we will get back to that, then, also.

22            Let me ask you some other things and we will get back to  
23    that when we actually talk about the files.  And I think you  
24    will see, then, that yours are out of order and then we can  
25    straighten it out.  Okay?

1 A. Okay.

2 Q. Now, as an FBI agent, you sometimes attend meetings or  
3 conventions, don't you?

4 A. I do.

5 Q. Okay. And there are law enforcement agencies and  
6 organizations that have calls to meetings, set up meetings,  
7 and that you go to them. Correct? Occasionally?

8 A. I have attended law enforcement meetings, yes.

9 Q. Right. And the fact that you attend a particular meeting  
10 doesn't turn that into an FBI meeting just because you are  
11 there, does it?

12 A. Well, if I were attending a law enforcement meeting, I  
13 mean, I am a law enforcement officer. It is not an FBI  
14 meeting, but it is certainly a law enforcement meeting.

15 Q. But it doesn't make a FBI meeting just because you or you  
16 and some of your colleagues show up. Correct. It is still  
17 whatever the agency called it that is the meeting. Correct?

18 A. Correct.

19 Q. Now, you testified that Shukri Abu Baker, my client,  
20 stated that in his 2002 declaration -- You recall that  
21 declaration?

22 A. I do.

23 Q. That the Philadelphia meeting was, and I will quote, "A  
24 meeting of Islamic intellectuals, academicians, community  
25 leaders, and representatives of American Islamic

1 organizations, such as the HLF."

2 A. I recall that he said that, yes.

3 Q. And that he said it was not a meeting of any  
4 organization. You recall that.

5 A. I do.

6 Q. And you talked about that, didn't you?

7 A. Yes.

8 Q. Okay. Because you made a point of saying that this  
9 wasn't a meeting of the Palestine Committee. That is the  
10 point you were making that that is what he said. In other  
11 words, that he didn't say this was a meeting -- I am sorry.  
12 Strike that. I said it all wrong. Let me say it again. You  
13 made a point of saying that Shukri in his declaration didn't  
14 say this was a meeting of the Palestine Committee. Correct?

15 A. That is correct.

16 Q. Once I got it out of my mouth right.

17 And you were relying on a statement at the Philadelphia  
18 meeting by Omar Ahmad that says, and I will quote, I think you  
19 will remember this, "This meeting was called for by the  
20 Palestine Committee." And you compared that to what Shukri  
21 said. Right?

22 A. I compared that, as well as the planning phone calls, and  
23 the individuals who attended the meeting. So there were a  
24 number of things. But yes, that was one of the things, when  
25 Omar Ahmad announced it was a meeting of the Palestine

1 Committee.

2 Q. And you prepared a summary of the Philadelphia meeting,  
3 didn't you? And you call it Philly Meeting Summary.

4 A. Yes, we prepared a summary chart.

5 Q. This is the chart.

6 A. That is correct.

7 Q. Correct?

8 A. Uh-huh.

9 Q. And it lists what organizations people are in, doesn't  
10 it?

11 A. It lists what organizations I could establish through the  
12 evidence that we were introducing.

13 Q. Right. But not all of them are members of the Palestine  
14 Committee, are they?

15 A. I can't say that they are not members, but I cannot  
16 indicate that they were because I didn't have evidence to say  
17 for 100 percent that they were.

18 Q. So you don't -- According to your chart, going by your  
19 chart --

20 A. Correct.

21 Q. -- not all the members are listed as being members of the  
22 Philadelphia committee. Of the Palestine Committee. Correct?

23 A. Right. There are some people on there that I was not  
24 comfortable identifying as positively being members of the  
25 committee.

1 Q. So there are some people on this chart -- it is a very  
2 simple question. There are some people on this chart who,  
3 according to your information, what you have available, are  
4 not members of the Palestine Committee. Correct?

5 A. That is not what I said. I said I didn't feel  
6 comfortable indicating that they were members. I didn't  
7 say -- I said that I could not say that they were not members.  
8 Does that make sense?

9 Q. So you couldn't say that they were members either.

10 A. That is correct.

11 Q. Correct?

12 MS. HOLLANDER: Your Honor, I guess I need to ask  
13 you if you could ask the jury if it bothers anyone to have  
14 that screen on between these? If it is not glaring, I will  
15 just leave it on.

16 THE COURT: Anybody bothered by that monitor over  
17 there? Okay.

18 MS. HOLLANDER: I just wanted to make sure it wasn't  
19 too bright, because it is just easier to leave it on. Thank  
20 you.

21 Q. (BY MS. HOLLANDER) Now, some people you said got  
22 together before the meeting to plan it. Correct?

23 A. They had phone calls to plan the meeting.

24 Q. And you actually intercepted some of those phone calls,  
25 and even told the jury about some of them, didn't you?



1 A. That is correct.

2 Q. Okay. They decided that some people would deliver papers  
3 on certain topics. Correct?

4 A. That is correct.

5 Q. And they planned the sessions out and, you know, who  
6 would work on what the topics for the sessions would be.  
7 Correct?

8 A. That is correct.

9 Q. And who would deliver papers at each session?

10 A. That is correct.

11 Q. And the meeting was held at a Courtyard by Marriott;  
12 courtyard Marriott in Philadelphia. Correct?

13 A. That is correct.

14 Q. That hotel was open to the public while they were there,  
15 wasn't it?

16 A. The hotel was. I don't think that the meeting room was,  
17 but the hotel was obviously.

18 Q. When organizations have meetings, they often don't invite  
19 the entire public to them, do they?

20 A. That is correct.

21 Q. So there wasn't anything odd about that, was there?

22 A. About --

23 Q. About not inviting the entire public to the meeting.

24 A. I think in their conversations when they were planning,  
25 they discussed that they didn't want to invite certain people

1     because of --

2     Q.    Right.  That is not what I am asking.  I am asking about  
3     the public.  The meetings weren't open to the public, were  
4     they, as far as you know?

5     A.    As far as I know, the Philadelphia meeting, no, was not  
6     open to the public.

7     Q.    Right.  But they all checked into the hotel using their  
8     own names, didn't they?  As far as you know.

9     A.    From the records we received from the hotel, I know that  
10    those individuals used their own names.

11    Q.    And that is the information that you have.  Right?

12    A.    Correct.

13    Q.    All right.  And you have provided that information for  
14    the jury from the Marriott.  Correct?

15    A.    That is correct.

16    Q.    Shukri signed in using his name, didn't he?

17    A.    I don't recall if we actually saw his signature, but he  
18    did use his name, yes.

19    Q.    And you were able to subpoena credit card information,  
20    because people used credit cards there also.  Correct?

21    A.    Yes.  The HLF purchased those airline tickets and the  
22    hotel rooms.

23    Q.    Right.  They didn't go in and pay in cash for their hotel  
24    rooms, did they?

25    A.    I am not aware if anyone did that or did not, but I know

1     that the HLF paid for a number of rooms with their credit  
2     card.

3     Q.    Right.  And you took surveillance photographs of people  
4     coming and going.  Correct?

5     A.    The FBI did.  I wasn't there.

6     Q.    I am sorry.  When I say you, I suppose I should say your  
7     organization.  I don't mean you personally.

8     A.    Yes, they did.

9     Q.    And they met in actual hotel meeting rooms.  Correct?

10    A.    I believe the records indicated there was a conference  
11    room there at the hotel.

12    Q.    In fact, the FBI had set up cameras in that conference  
13    room, but you weren't able to actually see very much.  
14    Correct?

15    A.    They had cameras.  When I viewed the tapes they were  
16    extremely grainy and very difficult to make out who was in  
17    the --

18    Q.    Right.  But the FBI had gone in before they got there and  
19    set up cameras.  Right?

20    A.    They did, yes.

21    Q.    And actually the FBI also set up some video cameras in  
22    some of the individual hotel rooms that people were staying  
23    in, didn't they?

24    A.    I recall at least one hotel room that did have a camera  
25    in it.

1 Q. And the people staying in that room didn't know, of  
2 course, that they were being watched, did they?

3 A. I don't know if they did or not.

4 Q. You have no reason to think that they would know that,  
5 did you?

6 A. I know that in the Philadelphia meeting they did talk  
7 about, you know, being aware of surveillance, so I don't know  
8 if they thought they were being watched or not.

9 Q. But you didn't provide the jury here with any of the  
10 videos from the individual hotel room, did you? We don't that  
11 have information here, do we?

12 MR. JONAS: We object to the question, Your Honor;  
13 relevance.

14 THE COURT: Overruled. Go ahead.

15 Q. (BY MS. HOLLANDER) We don't have that information here  
16 from the video that was used in someone's hotel room, do we?

17 A. It has not been introduced. I think you have a copy, if  
18 we want to look at it.

19 Q. No, that wasn't my question. You guys -- You, the  
20 Government, didn't introduce it, did you?

21 A. No, we have not introduced it.

22 Q. Thank you.

23 Now, you have discussed with the jury various portions,  
24 and you have read various portions, and I am going to ask you  
25 to read a few more portions.

1 A. Okay.

2 Q. I don't think they are going to be very long. If you  
3 have a problem with your voice, then I will take over.

4 A. I think I can do it.

5 Q. Okay. Because you didn't tell the jury everything that  
6 Shukri said during that three-day meeting, did you?

7 A. No. I think we would probably still be here with me  
8 reading.

9 Q. Right. And we are not going to do that now either. But  
10 you have read the whole meeting, haven't you?

11 A. I have.

12 Q. And you helped the Government lawyers pick out the  
13 sections to read, didn't you?

14 A. We met and discussed the Philadelphia meeting and  
15 determined what portions that we were going to introduce.

16 Q. Right. And you were part of that meeting?

17 A. Yes.

18 Q. All right. And that was based, to some extent, on the  
19 fact that you are knowledge about it because you have read it.

20 A. I would hope that they appreciate the knowledge that I  
21 have.

22 Q. Right. Because you have read it.

23 A. Because I have read it.

24 Q. Okay. Now, you pointed out, to start with, and let's go  
25 back to Shukri's declaration for a moment, that he said that

1 at the Philadelphia meeting everyone spoke their minds. You  
2 pointed that out to the jury from the declaration.

3 A. That is correct.

4 MS. HOLLANDER: Can I have just a minute to make  
5 sure I have this correct?

6 THE COURT: Sure.

7 MS. HOLLANDER: Your Honor, can we approach? I  
8 think that will solve this problem.

9 THE COURT: Sure.

10 (The following was had outside the hearing of the  
11 jury.)

12 MS. HOLLANDER: I thought she was going to tell me  
13 that she understood how the .WAV files worked. I know how  
14 they work. The Government knows how they work. They go in  
15 order. But she said she didn't know. The Government's Philly  
16 meeting is all out of order, which I can show.

17 What I wanted her to read from, however, is Philly  
18 meeting which I have identified as meeting 14. It is one that  
19 they didn't introduce. There are six tapes that are not in  
20 theirs, and theirs are completely -- I mean, I can show it.  
21 It is going to come up in my cross that they are completely  
22 jumbled. But I had anticipated that once she told me the  
23 order of the .WAV files, which I assumed she would know  
24 because she has been working with these, I would just  
25 introduce the entire Philly meeting which we have in the right

1 order. And since she hasn't done that, the one I want her to  
2 read is one of ours.

3 So I can just not identify it right now and just have her  
4 read it, or we are going to have to -- I am going to have to  
5 call someone, or the Government is going to have to  
6 acknowledge that we can introduce these without objection. I  
7 mean, they are their tapes, but they didn't introduce all of  
8 them and they are all out of order.

9 MR. JONAS: First of all, I have no idea how these  
10 .WAV files work, Your Honor. I don't. So I resent the  
11 implication when she says that the Government knows, first of  
12 all.

13 Second of all, I don't agree with her. Just looking at  
14 it, she had, from what I saw on the screen, one that was  
15 October 2nd with the number 15 and October 3rd with a number  
16 3. So that doesn't mean that the .WAV file numbers indicate  
17 that that is out of order.

18 I do acknowledge, these are not in chronological order.  
19 It is partly miscommunication. It was my fault. I had given  
20 a list to the paralegal of the order I was going to show --

21 THE COURT: I am just trying to figure out why all  
22 of this is relevant to the jury.

23 MS. HOLLANDER: Well, it is relevant to the jury,  
24 Your Honor, because the Government has provided them in a form  
25 that they will never be able to find the consecutive things,

1 and that is --

2 MS. DUNCAN: Your Honor, can I explain, because I  
3 actually put this stuff together?

4 This were actually two sets of tapes, one for October 1st  
5 and 2nd, and then a second set for October 3rd. There are 18  
6 tapes for the 1st through the 2nd, and then 6 for the 3rd.  
7 And the last trial the Government put them all in order with  
8 Government exhibit numbers. So we compared the Government's  
9 exhibits with the old exhibit list and then with the  
10 Philadelphia tape, and so there are six that are missing.

11 We need to use -- We want to use one of those six that is  
12 missing. There are other portions where Shukri is speaking,  
13 and which we are going to talk about in cross, and then what  
14 he is saying continues on the next tape. But if the jury  
15 wanted to look at that independently through the Government's  
16 exhibits, they couldn't do it because, where he starts, for  
17 example, like on Government transcript No. 15, but then where  
18 he finishes is Government transcript No. 13.

19 We wanted to put them all in order so if the jury wanted  
20 to independently review what someone said, they would have it  
21 in the right order to do so, because there are several  
22 conversations and statements that continue over a transcript.

23 MR. JONAS: Can I make a proposal?

24 MR. JACKS: Judge, what they are saying is that they  
25 are going to put them in what they believe is a chronological



1 order.

2 MS. HOLLANDER: It is a chronological order.

3 MR. JACKS: That is her testimony. Nobody has said  
4 that the fact that these are numbered indicates that that is  
5 the sequence they were recorded, because these meetings went a  
6 long time. You will see some of them where the tape ran out  
7 in the middle of the conversation, so I don't know -- Whoever  
8 numbered these recordings, I don't know what the code is that  
9 19931002 -- That is probably on October 2nd, 1993 and then it  
10 has a number. But does that mean that those tapes are  
11 numbered?

12 THE COURT: I don't know any of this that you are  
13 talking about. This is all Greek to me. I don't want to get  
14 into that right now until we resolve it. What is it you are  
15 about -- You want to get that conversation, and you object to  
16 that?

17 MR. JACKS: It is already in.

18 MS. HOLLANDER: It is not in. It is not there.

19 THE COURT: Take a look at it.

20 MR. JACKS: This wasn't on their list either to what  
21 they were going to go into.

22 MS. DUNCAN: I told you last night that we were --

23 MR. JACKS: It is not on the list.

24 THE COURT: Because none of the Philadelphia meeting  
25 was on the list. Well, was it?

1 MS. HOLLANDER: Well, I didn't think it was going to  
2 be an issue because it is --

3 MS. DUNCAN: I told him this last night.

4 MR. JACKS: This was delivered last night, but we  
5 weren't told this.

6 MS. DUNCAN: I did. I said, "These are the ones we  
7 are going to use tomorrow. I think there may be some more,  
8 but of course" --

9 THE COURT: What is your exhibit number on this?

10 MS. DUNCAN: These are the Philly meetings.

11 THE COURT: What is your exhibit number on it.

12 MS. DUNCAN: It is D-Philly Meeting No. 1 through  
13 24.

14 MR. JACKS: Implicit in this is that they have put  
15 them in chronological order, and there is nobody to say that.

16 MS. HOLLANDER: Well, I can show it from the  
17 conversation.

18 MS. DUNCAN: Also this is the order that they had in  
19 the first trial. When you look at their exhibit list from the  
20 first trial, it is clear.

21 THE COURT: But they are saying it is not.

22 MS. HOLLANDER: Well, he has admitted that they got  
23 out of order.

24 MR. JONAS: That doesn't mean that you put them in  
25 the right order either.

1 MS. HOLLANDER: Well, then you can look at them and  
2 see.

3 THE COURT: But this should have been done before  
4 now is the problem. I mean, here we have been keeping the  
5 jury waiting again.

6 MR. JONAS: If you want us to address this during  
7 lunch, we can take a look at it then. Right now I have to go  
8 back and check ours to see if this is right.

9 MS. DUNCAN: Can we break early and do this?

10 THE COURT: We are already going to take a long  
11 lunch, so we are going to work until 12:30.

12 MR. JONAS: I don't know the procedure, Your Honor.  
13 I need to take a look at this.

14 THE COURT: I am not going to let you get into it.  
15 You didn't put it on the list, so I have not had a chance to  
16 look it. They haven't had a chance to look at it.

17 MS. HOLLANDER: We told them.

18 THE COURT: Yes, but you told them this morning. I  
19 haven't looked at it either.

20 MS. HOLLANDER: We told them last night.

21 THE COURT: It is the same thing. I haven't looked  
22 at it, and I have got these objections, and of course I can't  
23 resolve it because I haven't looked at it. So I am not going  
24 to let you get into it.

25 That was the whole purpose of exchanging these lists.

1 That defeats it when you are doing it late at night or in the  
2 morning. I didn't get it. I still don't have it. This is  
3 the first time I have seen it. I have some supplemental disks  
4 this morning that I haven't seen, and still haven't seen.  
5 That was the purpose of exchanging these lists is so we could  
6 get their objections, I could look at it in advance, and avoid  
7 these lengthy bench conferences.

8 MS. CADEDDU: Your Honor, this is cross, and we  
9 don't know until the end of cross --

10 THE COURT: But I don't believe that. You already  
11 knew about this out of order and all of this. I just can't  
12 accept that you all just decided sometime this morning to use  
13 this.

14 MS. CADEDDU: Is the Court taking the position that  
15 we have to disclose our cross exhibits early?

16 THE COURT: No. Well, yes I have on those, because  
17 this is a retrial. I have already been over that, Marlo.  
18 There shouldn't be any surprises. Everybody has seen these  
19 exhibits. And we are doing it witness by witness as we go in  
20 advance so that I can take a look at objections to avoid this.

21 MS. CADEDDU: I would object to disclosing all my  
22 cross.

23 THE COURT: That is not my ruling on it. You have  
24 your objection, but it is overruled. And that is not my  
25 ruling.

1 I am not going to let you go into this.

2 MS. HOLLANDER: The problem, Your Honor, is I never  
3 anticipated that the Government was going to have an issue  
4 with this. I mean --

5 THE COURT: Part of the problem is they don't know  
6 because he says he needs to read it.

7 MS. HOLLANDER: I understand.

8 MR. CLINE: Why don't we work this out over lunch.

9 THE COURT: That is what I am saying.

10 MS. HOLLANDER: Let me see if I can go to some other  
11 part of my cross. Just give me a minute.

12 THE COURT: I can't resolve this now.

13 (The following was had in the presence and hearing  
14 of the jury.)

15 MS. HOLLANDER: Give me just a second, Your Honor.

16 MS. DUNCAN: Your Honor, can we approach briefly?

17 THE COURT: Sure.

18 (The following was had outside the hearing of the  
19 jury.)

20 MS. DUNCAN: Your Honor, we just checked -- I know  
21 we were going to take a long lunch. We just checked, and it  
22 would be fine for them if we started it now and came back at  
23 1:30. So do the two hours starting now, resolve this issue,  
24 and then come back at 1:30, which may be the fastest thing, if  
25 that is okay with the Government.

1 MS. HOLLANDER: That would help.

2 THE COURT: All right.

3 MS. HOLLANDER: Thank you.

4 (The following was had in the presence and hearing  
5 of the jury.)

6 THE COURT: Members of the jury, we are going to go  
7 head and take a long lunch break because of some things I need  
8 to take care of. So I will let you go, and be back at 1:30.  
9 We will plan on working until 5:00 or 5:30.

10 Please recall the instructions we have been over. See  
11 you back at 1:30.

12 (Whereupon, the jury left the courtroom.)

13 THE COURT: Be back at 1:15, unless you get this  
14 issue resolved. If I need to make a ruling on it, be back at  
15 1:15. If you get it resolved, we can start at 1:30.

16 We will be in recess.

17 (Lunch recess.)

18 THE COURT: Where are we with respect to this  
19 exhibit?

20 MS. HOLLANDER: Your Honor, Mr. Jonas has I think  
21 the ball is in his court.

22 THE COURT: Mr. Jonas. Mr. Jacks?

23 MR. JACKS: Your Honor, with respect to the Philly  
24 exhibits, as I understand it the Defense wants to introduce 24  
25 transcripts of the conversations from the Philadelphia

1 meeting, and they want to introduce them and number them in  
2 such a fashion and make --

3 THE COURT: Twenty-four different conversations than  
4 the ones that are in?

5 MR. JACKS: No, sir.

6 THE COURT: Okay.

7 MR. JACKS: I believe there is six -- There are 18  
8 in plus --

9 THE COURT: Six additional?

10 MR. JACKS: Correct. And they want to number them  
11 and tell the jury that these are in chronological order in the  
12 way that the conversations occurred. I don't believe that  
13 there is any way to establish that, the chronological order  
14 part of that argument. The exhibits or the transcripts, or I  
15 guess actually it would have been the tape recordings from  
16 which the transcripts were made.

17 Someone, and I am not sure who it was, someone within the  
18 FBI apparently gave them this numbering system of some  
19 letters, 199310, which would be for October, and then either  
20 02 or 03. I think they are all either 02 or 03 indicating the  
21 2nd or the 3rd of October, and then underscore, and then the  
22 number, and then the term .WAV. I don't think that term .WAV  
23 was even known or in existence in 1993, so that term or that  
24 labeling formula had to have been applied later.

25 I don't believe you can tell from looking at the

1       conversations necessarily that --

2               THE COURT:   The chronological order?

3               MR. JACKS:   That they are necessarily chronological.  
4       Sometimes they are the same speaker, but you can't tell that  
5       it is the continuation of the conversation on the prior tape.

6               The Government believes that it has yet to be shown that  
7       it is necessary to arrange them in chronological order.  I  
8       don't believe any justification or reason has really been  
9       expressed that if they are put in this order then this point  
10      can be made.  And I don't think that has been conveyed to the  
11     Court, and for that reason we also would object.

12              As to the six extra conversations, they are hearsay to  
13     these Defendants, and unless and until a hearsay exception can  
14     be overcome or shown, I don't believe they are admissible.  
15     And if -- Well, that is the extent of it.

16              THE COURT:   All right.  Ms. Hollander?

17              MS. HOLLANDER:  Ms. Duncan is the one who worked  
18     this exhibit, Your Honor.

19              THE COURT:   That is fine.

20              Ms. Duncan?

21              MS. DUNCAN:   Thank you, Your Honor.  In terms of the  
22     date issue, the order that we placed our transcripts in is the  
23     same order that the Government had the transcripts in before,  
24     during the last trial, and that is also according to these  
25     .WAV numbers.  So the tapes that were turned over to us by the



1 Government, there were 18 tapes for the first two days and six  
2 tapes for the second two days. And so now we have numbered  
3 the first two days 1 through 18 and the second -- the third  
4 day 19 through 24.

5 What I would propose -- I mean, during her cross  
6 examination of Agent Burns, Ms. Hollander can go through the  
7 .WAV numbers and show we have 1003\_3, 4, 5, 6, 7. There are  
8 some conversations that she is intending to get into where it  
9 is very, very clear that a conversation starts, for example,  
10 on our transcript 6 and it finishes on transcript 7. I think  
11 we have two places -- I am sorry. On Defense 6 and 7. Two  
12 places where it is very clear that it is the same speaker  
13 speaking on the same subject. And I think when the jury hears  
14 it that it will be apparent to them.

15 And so I think through, you know, explaining the .WAV  
16 file numbering through Agent Burns, the jury can decide  
17 whether the Government's are in order or ours are in order,  
18 and it is really up to them to decide.

19 THE COURT: But she didn't know about the .WAV  
20 numbering, did she--Agent Burns? I think Ms. Hollander was  
21 already asking her some questions. She didn't know that that  
22 was necessarily a sequence.

23 MS. DUNCAN: And I don't think that she has to know  
24 for it to come in. She has to acknowledge that the FBI put  
25 these numbers here, and we can say, "Now this is .WAV\_6, 7, 8,

1     9, 10," and then look at these certain conversations that we  
2     show these numbers are in order, and then it is really up for  
3     the jury to decide whether ours are in the correct order or  
4     the Government's are in the correct order. But they will have  
5     both so that when they are considering this evidence  
6     independently and making their verdict, they can look at both  
7     and say, "Oh, the Defense makes more sense to me in this order  
8     or the Government's."

9             THE COURT: What about the six exhibits, the  
10     additional exhibits that the Government didn't put in? What  
11     about that hearsay objection?

12            MS. DUNCAN: First, Your Honor, the Government  
13     represented to this jury that its transcripts represent the  
14     whole of the meeting, and that is just not true. There are 24  
15     and they only introduced 18. So it would come in for that  
16     purpose.

17            As for the -- I think there is one transcript I believe  
18     that Ms. Hollander wants to get into in substance before the  
19     jury, and it is necessary under the rule of completeness to  
20     understand what is being said by the speakers and the purpose  
21     of the Philadelphia meeting. The Government introduced the  
22     entire meeting during the last trial, and I think you can't  
23     just pull chunks out of a three-day meeting and still give the  
24     jury the full sense of what was being said and what the  
25     purpose of that meeting is.

1           And because the Philadelphia meeting is so critical here,  
2 I think it is really important that the jury get that full  
3 view, and that is what those six tapes do is they give the  
4 jury the full view of the three-day meeting that the  
5 Government has put so much weight on.

6           MS. HOLLANDER: Your Honor, I just would like to add  
7 that Mr. Jonas said to the jury this is the whole meeting, and  
8 I asked Mr. Jonas several days ago when I realized that -- I  
9 wasn't sure what they were going to do, I asked him, "Are you  
10 putting in the whole meeting?" And he responded that they  
11 were putting in the whole meeting. It took us quite a while  
12 to figure out that they weren't.

13           Part of the problem here is the Government I think tried  
14 to simplify -- The numbering system last year was very  
15 confusing for everybody, and I think the Government tried to  
16 simplify that, which in fact they have, by identifying what  
17 things are. Whether that is the right way to do it or not, it  
18 does make it simple, Philly Meeting 1 through 18. And, I  
19 mean, it took us a long time to figure it out, because it says  
20 Philly Meeting 1 through 18, we knew there were 24, the  
21 Government kept saying, "We are putting them all in." So it  
22 took us a while to figure it all out.

23           But it is a whole meeting, and I just wanted to explain  
24 partly why this is so confusing, because it took a long time  
25 to kind of -- It is a huge document, and it takes time to sort

1     it out.

2                   THE COURT:   Mr. Jonas?

3                   MR. JONAS:   Your Honor, Ms. Hollander did ask me if  
4     we were putting in the whole thing, and I checked with support  
5     staff, and I thought the whole thing was going in. Obviously  
6     I was incorrect. If I can explain how I got to that.

7                   I did not take the numbering system from last year or  
8     what we used in the last trial. I decided to start over  
9     fresh, because Agent Burns wasn't my witness in the last trial  
10    and I wanted to start with a clean slate. So I went through  
11    the transcripts and identified the sections that I wanted her  
12    to testify about as we went through in this court.

13                  And then, without even thinking about whether the first  
14    time was in chronological order or not, because I didn't find  
15    that to be important, I arranged them by more subject matter,  
16    because, as Agent Burns testified, they jumped around a lot at  
17    the Philadelphia meeting what they talked about. So I tried  
18    to put it in some sort of subject matter relevance order. And  
19    to the best I could we did that. And even when I questioned  
20    her there was some jumping around as well between transcripts.

21                  One thing I did do is I stayed basically with the first  
22    ten or so transcripts, and for the most part left the rest  
23    alone because we are going to get to that later following the  
24    sequence of her testimony. So that is what happened.

25                  Clearly the Defense is not prejudiced here. They are the

1 ones who were able to identify that there were six transcripts  
2 not admitted at this time. Ms. Hollander could have brought  
3 this to our attention when she asked me and I told her that it  
4 is my understanding the whole thing is being admitted. We  
5 could have then sat down and double checked, compared to the  
6 prior list and what we had.

7 Having said all that, it still doesn't get around the  
8 hearsay argument that Mr. Jacks raised.

9 THE COURT: She raised an optional completeness  
10 issue in terms of -- to give a context. What about that?

11 MR. JACKS: Well, Judge, I think it needs to be more  
12 specific than just this general statement that these, however  
13 long they are, 30 minutes, you know, however many pages, 15,  
14 20 pages, needs to come in under rule 106. I believe it has  
15 got to be a more specific showing that these statements right  
16 here are completing what is shown over here. I think just  
17 this global assertion that it all ought to come in under 106  
18 is woefully insufficient.

19 And then to touch on something that Ms. Duncan talked  
20 about, she says there is two instances where a conversation is  
21 continued from one tape or one exhibit on to another. Well,  
22 then maybe those two instances need to be referenced or put in  
23 sequence or just shown to the jury in sequence using the  
24 Government's exhibits, but it doesn't require or certainly  
25 doesn't justify the wholesale submission of all of these

1 transcripts again in what the Defendants claim is  
2 chronological order.

3 And again, the Government has the right to put on the  
4 evidence that it chooses to put on, in the order that it wants  
5 to put on, with the exhibit labels that it wants to put on,  
6 and however we choose to do that, and if it is different from  
7 the previous trial, that is within our prerogative, but it  
8 doesn't do away with the requirement that in order for the  
9 Defendants to try to admit somebody else's statements outside  
10 of court, it doesn't eliminate that requirement that there is  
11 still a hearsay problem there. And whatever happened in the  
12 first trial does not change the admissibility or the  
13 foundation that is still required for them to get these  
14 exhibits in.

15 And as I said, I think we need to be careful here about  
16 broad statements that, "Well, this exhibit will explain that."  
17 I think we need to ask specifically where -- This gamesmanship  
18 or holding -- trying to pull a surprise, now is the time to  
19 say, "This phrase or statement right here on this page  
20 explains better this statement over here on this." Not just  
21 this broad, "Well, it is part of this overall conversation."

22 And lastly, the answer to the response that Mr. Jonas  
23 told the jury or had Ms. Burns say that these are all the  
24 tapes, the answer to that point is, "Well, Ms. Burns, in fact  
25 aren't there other transcripts of that meeting that have not

1     been introduced?"

2             "Yes."

3             And that is the end of it. That doesn't mean that all of  
4     a sudden all of those other tapes become admissible.

5             THE COURT: Okay. Ms. Duncan?

6             MS. DUNCAN: I will be brief. You know, under rule  
7     106 it is what ought in fairness to come in. And we have a  
8     three-day meeting, 18 tapes of which are being brought in. In  
9     fairness the jury should have the entire meeting to be able to  
10    put into context the statements that the participants made  
11    throughout the meeting.

12            We are not arguing that these tapes come in because the  
13    Government introduced them before. We offered that as an  
14    explanation of why the order that we are putting them in, you  
15    know.

16            And secondly, in terms of the prejudice, the Government  
17    has said that they thought they were putting them in to begin  
18    with, so I don't know how they are prejudiced by us now  
19    putting in that which they say they intended to do from the  
20    beginning.

21            And for us -- We are entitled to comment on how the  
22    Government introduces evidence, which pieces they choose to  
23    introduce, and the order they choose to introduce it, because  
24    in this case we think that that order is misleading, and we  
25    are entitled to bring that to the attention of the jury. So I

1 think -- I mean --

2 So with the hearsay, you know, it is necessary for the  
3 jury to be able to make that independent determination of what  
4 were these people talking about, why were they getting  
5 together, and they need to have all the tapes to make that  
6 determination.

7 MS. HOLLANDER: Let me just add one thing. The  
8 Government is backtracking here. The Government told the  
9 jury, "We are putting in the whole Philadelphia meeting."

10 THE COURT: But the fact is they didn't.

11 MS. HOLLANDER: The fact is they didn't. So now  
12 they are backtracking and saying --

13 THE COURT: I don't know about backtracking. They  
14 made a mistake. They didn't put it in. By stating that they  
15 were putting them in, that was a mistake. But that doesn't  
16 make it admissible. As the Government says, that doesn't make  
17 the rest of it admissible. There has to be a basis for that.

18 And, frankly, I have not read all these transcripts, so I  
19 will have to take a look at them before I let you get into  
20 them. I don't have them.

21 MS. HOLLANDER: I understand, Your Honor. I mean, I  
22 am concerned about a couple of things. I mean, I understand  
23 what you are saying that you haven't looked at them. And I  
24 will have to go -- You know, I mean, I had I was up to 1:30 in  
25 the morning putting this together so I could show the jury why



1 the Government's transcripts in the order they are in are  
2 misleading, and it has to do with statements of my client that  
3 either partially were introduced or weren't introduced that  
4 specifically complete other statements. And so you have to  
5 start with one transcript and go back to another to finish.  
6 And it would take me a little while to find that for Your  
7 Honor to show you exactly why these complete --

8 THE COURT: I will let you do that over the weekend.  
9 We are not going to take the time now.

10 MS. HOLLANDER: Well, basically -- I mean, that  
11 means that I have to sit down and think about how I am going  
12 to cross this witness, because --

13 THE COURT: Well, if you are through crossing, you  
14 are through. I am not going to let you waste time, counsel.  
15 You should have done this and you should have been ready.  
16 That was one of the reasons I am asking for these exchange of  
17 exhibits sufficiently in time and then objections so everybody  
18 can look at this and I can make these rulings.

19 But if you don't have anything else to cross on, you can  
20 sit down and come back Monday and cross if you need to. But  
21 we are not going to keep this jury sitting here much longer  
22 and I am not going to let you waste time.

23 And I am still trying to understand, once I get those  
24 conversations, to understand how were you planning on  
25 establishing this chronology and that the Government's is

1 wrong? Through the witness, just asking her to read all of  
2 these --

3 MS. HOLLANDER: To read some very specific parts,  
4 and to read other parts that will show that it is just a  
5 continuation of the same conversation. And I will have  
6 to -- I mean, I am not finished with my cross. All I was  
7 trying to say is I may have to start somewhere else and leave  
8 this part.

9 THE COURT: That is what you will need to do.

10 MS. HOLLANDER: But it is going to take me a little  
11 bit of time, which I can do over the weekend, to put it  
12 together for Your Honor so that -- Because you obviously don't  
13 want to read 500 pages of the Philly meeting. And I will put  
14 that together. I will just have to start somewhere else and  
15 then --

16 THE COURT: So the entire transcript of the  
17 Philadelphia meeting is 500 pages?

18 MS. HOLLANDER: I am guessing, Your Honor.

19 THE COURT: Roughly. I understand. About how much  
20 is in?

21 MS. HOLLANDER: Well, you know, they are more or  
22 less the same size, and 18 of the 24, AND this is the whole  
23 thing.

24 THE COURT: Okay.

25 MS. HOLLANDER: Ms. Duncan thinks maybe 50 pages are

1 not in.

2 THE COURT: Maybe 50 pages are not in?

3 MS. DUNCAN: I can actually look, Your Honor, right  
4 now.

5 MS. HOLLANDER: But what I will have to do is spend  
6 some time organizing it so that I not waste your time.

7 THE COURT: Right. I mean, you don't have a hearsay  
8 exception except perhaps the context and the optional  
9 completeness, so you have to make a showing. Mr. Jacks is  
10 correct that you just can't globally say, "We want the rest of  
11 the meeting in." You have to make a showing that there is a  
12 reason for that context. I can't make that determination --  
13 Obviously I will have to make the determination. He doesn't  
14 think it is proper. You are saying it is. I can't make that  
15 determination without reading that.

16 MS. HOLLANDER: I understand, Your Honor. The  
17 problem arose was we thought they were putting the whole thing  
18 in and we didn't have to make that showing. So that is where  
19 the problem arose.

20 THE COURT: Well, you can do that over the weekend,  
21 and then I will need some time after that, of course, to look  
22 at it. In the meantime, we will just have to skip over that  
23 and get onto your next issue.

24 MS. HOLLANDER: Are there any other issues? My  
25 other exhibits? Because they asked me about another exhibit.

1 Is there an issue?

2 MR. JONAS: Your Honor, I understand from Ms.  
3 Hollander that she is taking Government's exhibit Illa  
4 Falistine No. 1 and putting a Defense sticker on it, and she  
5 is claiming that there are translation differences, and I am  
6 not quite sure I understand.

7 MS. HOLLANDER: Well, there are translation  
8 differences. This raises another problem, Your Honor, which  
9 we discovered quite by accident, and just discovered when we  
10 were looking at the Illa Falistine and I asked my client to  
11 translate something, because it looked like something was  
12 missing.

13 THE COURT: So how are you going to try to establish  
14 the difference in the translation? Through the agent?

15 MS. HOLLANDER: Yes. Because we have the  
16 translation. They are both their translations that -- What  
17 has happened, and this raises another problem, the Illa  
18 Falistine ad for the Occupied Land Fund that they put in last  
19 time on Illa Falistine No. 1 includes a poem. This time they  
20 have basically air brushed that out, and that is -- It was my  
21 client who noticed it. So we went back to see what they did  
22 last time. And it has been translated. And while doing  
23 that --

24 THE COURT: And both of them are the Government's  
25 translations?

1 MS. HOLLANDER: Yes, sir. But while doing that, we  
2 also discovered, because the Government, you will recall, a  
3 few days ago introduced a poem that they attribute to my  
4 client. And we looked at that, and it has been translated  
5 differently. Some of the differences are subtle, but they are  
6 different.

7 THE COURT: So you want to ask her about the two  
8 different translations made by the Government?

9 MS. HOLLANDER: Yes, sir. And -- Yes. And I am  
10 going to be asking the Government by letter to let me know if  
11 there is any others, because there is no way for me to go back  
12 through these thousands of pages and see if they have  
13 translated things differently. We found this one just by  
14 accident. But I do want to show her both the Government  
15 translations and have her compare them.

16 MR. JONAS: Your Honor, I mean, it was during the  
17 lunch hour that Ms. Hollander pointed out that she is doing  
18 this with this particular exhibit. In the few minutes that we  
19 have had, I had a call placed to the translator and I checked  
20 with the person who pulled the exhibits from the last trial to  
21 reuse in this trial. What they both told me is there hasn't  
22 been a single change made to the exhibits.

23 All I am asking is let Ms. Hollander -- and I looked for  
24 our version of it from the last trial, and it wasn't where the  
25 exhibits that were not using in this trial is, and the reason

1 is because we pulled it from the last exhibits and put it in  
2 this set of exhibits.

3 So I asked Ms. Hollander, "Let me see a copy of what you  
4 are talking about," and maybe I can figure out whether she is  
5 right or not in terms of there being translation changes.

6 MS. HOLLANDER: Well, I mean --

7 MS. DUNCAN: I can just -- Your Honor, the other  
8 translation from the last trial, that exhibit came off of the  
9 Court's website of admitted exhibits. So that may help you,  
10 Mr. Jonas.

11 MS. HOLLANDER: And I gave you the number of it.  
12 And Ms. Duncan gave that to Mr. Jacks last night.

13 THE COURT: Okay.

14 MS. HOLLANDER: But I mean -- We gave it to him in  
15 an electronic format. I mean, I can show it to Mr. Jonas. A  
16 couple of them are very obvious. The missing poem is  
17 glaringly obvious.

18 But I am concerned that if things have been changed  
19 internally from last time to this time, we have no way to know  
20 that except if we discover it quite by accident, which this  
21 was.

22 MR. JONAS: Your Honor, I don't think it is proper  
23 to question Agent Burns about this. I think this is a  
24 question for the translator if changes were made.

25 THE COURT: I think at some level that is right.

1 But if you have the English versions and you have two  
2 different English versions by the Government, I think she  
3 probably can point that out through the agent, just because  
4 that is easy enough to establish, so long they are the English  
5 translations. And if you want to bring in a translator to  
6 explain that, or if there is a difference, I think you can do  
7 that.

8 MR. JACKS: Well, Your Honor, I would just ask that  
9 we be afforded the opportunity to see what the issue is. And  
10 if there is an explanation, then fine. But just to spring it  
11 on Agent Burns, who we can't talk to, is unfair. And so the  
12 fact that she says these are two Government translations that  
13 are different, I think if we were just asked that, maybe we  
14 could go find out what the answer is, rather than just asking  
15 Agent Burns in front of the jury, who may or may not know what  
16 the answer is.

17 But before it is brought out in front of the jury, we  
18 would like to have the opportunity to investigate what Ms.  
19 Hollander says, and look at what she is talking about and see  
20 if --

21 THE COURT: Do you have those two documents that you  
22 can show them now?

23 MS. HOLLANDER: I do have them, Your Honor.

24 THE COURT: Do you want to show them?

25 MS. HOLLANDER: I can show you this one right here.

1 It is right here. I have --

2 THE COURT: Mr. Jacks, do you want to take a look at  
3 that?

4 MS. HOLLANDER: I have this year's and last year's.

5 THE COURT: Mr. Jacks, or Mr. Jonas?

6 MR. JACKS: Your Honor, there is nothing in the  
7 record that shows that whatever other version was a Government  
8 version. We may all know that, but that is not in the record  
9 in front of the jury. That is why I believe that the proper  
10 thing to do is if she has questions about the translation,  
11 bring them to us, to the Government, and we will look at it,  
12 we will check with the translator, and we can find out what  
13 the answer is to the situation.

14 But just from looking at the two differences that she has  
15 shown here, one of them shows just in brackets, it just says  
16 "poem," and then another one shows the poem there. Now, is  
17 that a translation issue, or just that in one version the poem  
18 was not included and then the other it is? That is not really  
19 a mistranslation.

20 And so I don't believe it is proper to try to confront  
21 Agent Burns with these discrepancies and imply that the  
22 Government has somehow changed something or done something  
23 improper and try to make that point to the jury.

24 THE COURT: So are you saying that in the last trial  
25 that document was introduced without the poem?



1 MS. DUNCAN: There is two changes, Your Honor. One  
2 is at the last trial the poem was included in the translation,  
3 and it has been omitted in the exhibit that they have  
4 introduced in this trial. And then the second -- It is part  
5 of the Holy Land Foundation ad.

6 But there is the second issue, there is a poem that they  
7 claim was written by Mr. Abu Baker, and the translation of  
8 that poem in the exhibit they introduced last year is  
9 different from the translation of the poem that they are  
10 introducing this year.

11 And there are portions of the Holy Land ad that they  
12 included last year and this year where the words are  
13 different. For example, last year they had a sentence that  
14 was translated "rebuild a mosque." This year they have  
15 translated it "refurbish a mosque." So some of the changes  
16 are a little more substantive than that, but there are these  
17 subtle changes.

18 And in terms of the Government explaining away why there  
19 were two translation, that is a proper topic for redirect. It  
20 is not a reason to prevent Ms. Hollander from going into it on  
21 cross. And she will be establishing that foundation through  
22 her questions with Agent Burns and, therefore, bringing the  
23 issue to the jurors' attention.

24 MR. JACKS: Then, Your Honor, she would need a  
25 certified copy of the translation from the earlier trial,

1       then. She can't just represent that this is a translation  
2       from the first trial.

3               MS. HOLLANDER: Your Honor, it is right off the  
4       Court's website. I mean, I pulled it right off the Court's  
5       website.

6               MR. JACKS: She is not a witness, Your Honor, so she  
7       can't establish the foundation by telling the jury that it  
8       came off the Court's website.

9               Again, Your Honor, it is not about finding out what these  
10      documents say. It is about trying to catch somebody in a  
11      mistake. And if the interest is to show what these documents  
12      say, then let's get to that and let's talk about that. But as  
13      I said, this gamesmanship to hold back, not deliver these, not  
14      point out these things that you are going to be bringing up so  
15      that we are standing here for 30 minutes debating this while  
16      the jury is waiting, that is the problem, Your Honor. They  
17      want to spring this on Agent Burns, and really don't have the  
18      proper foundation to ask her these questions. They are going  
19      to assume and imply a lot of things in their questions, but  
20      really they haven't done the proper foundation to use these  
21      things as evidence in front of the jury.

22              MS. HOLLANDER: Your Honor, this is cross  
23      examination.

24              THE COURT: I understand. But still part of what he  
25      is saying, you have to establish somehow, I guess through

1 Agent Burns by showing to her that this is a previous  
2 translation prepared by the Government.

3 MS. HOLLANDER: It has the Government's exhibit  
4 sticker on it, Your Honor. Now, I was --

5 THE COURT: But --

6 MS. HOLLANDER: It has the Government's exhibit  
7 sticker. It came from the Government's website. The  
8 Government knows that this is exactly what I have said it is.

9 THE COURT: Mr. Jacks, let me ask you about it. Do  
10 you have any disagreement that in fact that is an earlier --

11 MR. JACKS: I don't know, Your Honor, because I  
12 haven't had time --

13 THE COURT: You keep saying the Government knows,  
14 but then the Government says, "We don't know," and so there  
15 isn't agreement. I think if you could establish that in fact  
16 that is what it is, either through Agent Burns, and she is not  
17 going to know without you just asking her cold, having the  
18 exact doesn't establish that Ms. Hollander, in and of itself.

19 MS. HOLLANDER: Then I would ask Your Honor that the  
20 Court pull it off the website and certify that it is correct.

21 THE COURT: No, actually what I want you to do is at  
22 some point get with the Government and show them where they  
23 are coming from, so they can satisfy themselves that in fact  
24 that is a previous government translation. And once that is  
25 done, then we don't have to worry about where it came from.

1     You can just -- We can agree that that is a previous  
2     Government translation. We don't have to get into prior trial  
3     or anything. Just another, whether it is previous or  
4     whatever, just another Government translation.

5             And I think you are entitled to get into that, but you do  
6     still have to establish that there are two different  
7     Government translations.

8             MS. HOLLANDER: I understand.

9             THE COURT: And you are telling me, "Well, this  
10    comes off the website," but you are not a witness. That can't  
11    be established in terms of evidence as far as predicate. And  
12    so unless you can get Agent Burns to look at that and say,  
13    "Yes, I know this is a previous Government translation," then  
14    you are not going to have a predicate. She is not going to  
15    know, and we are going to be right back where we are spinning  
16    our wheels.

17            MS. HOLLANDER: I gave this to the Government  
18    yesterday, and Mr. Jonas actually emailed me over lunch and  
19    asked me, "What is the difference and where is the Government  
20    exhibit?" And I told him the Government number, the previous  
21    Government number --

22            THE COURT: But how many of these do you have that  
23    you want to get into?

24            MS. HOLLANDER: I have one, Your Honor. I have one.  
25    I mean, I am concerned that things are getting retranslated.

1 THE COURT: You are what?

2 MS. HOLLANDER: I am concerned that exhibits are  
3 getting retranslated, and this one we just found by chance.

4 But, I mean, the Government knows and could have pulled  
5 it up and looked at it if there was any question. It  
6 never -- I have to say, it never occurred to me that the  
7 Government would think that I have made up a Government  
8 exhibit from the last trial, that I invented it somehow, as  
9 opposed to believing that this is the Government exhibit.

10 THE COURT: Mr. Jonas, have you had the opportunity  
11 to look at that.

12 MR. JONAS: Other than just what we did now? No.  
13 It came late in the lunch hour. One thing that we have done  
14 is we went back to our translator Mr. Shafik, who testified,  
15 and what he told us--I am hearing this third-hand now from the  
16 person that called him--he has not changed the translations.

17 So Your Honor, we don't have an explanation. I would  
18 like to investigate to find out if there is a change in the  
19 translation and what is going on. This could be an earlier  
20 draft. Just because it is on the Court's website from the  
21 last trial, there have been mistakes in the Court's website,  
22 and I don't know if this is one of them or not. So we need to  
23 check it out.

24 THE COURT: But are you disputing that that is a  
25 Government translation? Or you just don't know.

1           MR. JONAS: I don't know, sir. I don't know. I  
2 know the translation that is in the exhibit that is admitted  
3 is a Government translation.

4           THE COURT: In this case.

5           MR. JONAS: In this trial.

6           THE COURT: Okay.

7           MS. HOLLANDER: I think we had it electronically  
8 from the last trial. I mean, the poem was clearly translated  
9 again, because there is all kinds of subtle little differences  
10 in it. One says something has arrived and another says it has  
11 come. The poetry of it has essentially been effectively  
12 removed, so it is now very difficult to read in the way it was  
13 before.

14           And part of the Holy Land ad, which is how they  
15 introduced these, has just vanished. And, you know, we  
16 literally just discovered this by chance.

17           But it never occurred to me, Your Honor, that the  
18 Government would contest --

19           THE COURT: Well, they are, and I can't resolve it,  
20 obviously, with what I have before me, and so I will have to  
21 make sure that that can be established either to their  
22 satisfaction or my satisfaction. Ultimately I am going to  
23 have to make the ruling. If you can satisfy them, then I  
24 suspect there wouldn't be any objection. But I can't rule on  
25 that either, so I am not going to let you get into that, at

1     least not now.

2             What other area?

3             MS. HOLLANDER: Well, I need a few minutes --

4             THE COURT: You have had plenty of time, counsel.  
5     You have had plenty of time. This jury has been waiting 35  
6     minutes, and I am not going to let them wait much longer. You  
7     are either ready to go or you are not.

8             MS. HOLLANDER: I was just going to see whether one  
9     of my other counsel wanted to go first.

10            THE COURT: You can do that. I will give you a  
11     minute.

12            MS. HOLLANDER: That is all I wanted.

13            THE COURT: That is fine. You can do that. We just  
14     need to get moving.

15            MR. JONAS: Our paralegal checked from the last  
16     trial, and what we checked the translations are the same as  
17     the current trial.

18            THE COURT: Okay. Like I say, we will just have to  
19     resolve that.

20            MS. HOLLANDER: We are just going to change the  
21     order and see if that will give me time to reorganize this so  
22     that we don't have to wait.

23            THE COURT: Right. Okay. Who is up next, then?

24            MR. WESTFALL: I will go, Your Honor.

25            THE COURT: And who is after Mr. Westfall?

1 MS. CADEDDU: I am, Your Honor.

2 MS. HOLLANDER: Do we need to explain somehow that I  
3 started to examine her and now we changed?

4 THE COURT: That is fine. Do you want to do that,  
5 that you are going to need to look at some things and we will  
6 come back with you later on?

7 MS. HOLLANDER: Can I do that?

8 THE COURT: Yes, since we were hearing from you.  
9 All right. Bring the jury.

10 (Whereupon, the jury entered the courtroom.)

11 THE COURT: Ms. Hollander?

12 Q. (BY MS. HOLLANDER) Good afternoon, Agent Burns.

13 A. Good afternoon.

14 Q. We have had a slight change of plans to reorganize, and  
15 one of the other lawyers is going to be asking you questions  
16 and then I will come back to you later.

17 A. Okay.

18 MS. HOLLANDER: Thank you, Your Honor.

19 THE COURT: Mr. Westfall?

20 MR. WESTFALL: Thank you, Your Honor.

21 CROSS EXAMINATION

22 By Mr. Westfall:

23 Q. Agent Burns, how is it going?

24 A. Great, thanks.

25 Q. I want to first talk to you the organizations, the



1 Palestine fund, the OLF and then the HLF. Okay?

2 A. Okay.

3 MR. WESTFALL: May I have this document viewer?

4 Q. (BY MR. WESTFALL) Okay. The first -- When the  
5 organization was first begun, it was called the Palestine  
6 Relief Fund. Isn't that true?

7 A. That is correct.

8 Q. And that was in Plainfield, Indiana?

9 A. That is correct.

10 Q. And I am showing you what is already in evidence as  
11 Secretary of State California No. 1. Do you see that?

12 A. I do.

13 Q. Okay. This is the articles of incorporation for the  
14 Occupied Land Fund. Can you see that okay on your screen?

15 A. Yes, I can.

16 Q. Okay. And the articles of incorporation are from January  
17 11, 1989. Isn't that true?

18 A. Yes.

19 Q. And the Occupied Land Fund was what the Palestine Relief  
20 Fund became.

21 A. That is correct.

22 Q. And it became that in January of 1989.

23 A. I think it began actually using the name much earlier,  
24 but by the time they were incorporated they were definitely  
25 using the name Occupied Land Fund.

1 Q. Okay. And then on page 3 actually of the same exhibit is  
2 an amendment to the articles of incorporation. Isn't that  
3 true?

4 A. That is correct.

5 Q. And this is September 16 of 1991. Right?

6 A. That is correct.

7 Q. And it says, "It is hereby amended for the Holy Land  
8 foundation for Relief and Development." So it was September  
9 16 of 1991 when the OLF officially became the HLF.

10 A. That is correct.

11 Q. Here at page 3 again, these are the officers of the  
12 corporation. Right?

13 A. That is correct.

14 Q. And Abdul Odeh wasn't one of the officers of the OLF.  
15 Right?

16 A. No, he was not.

17 Q. And in fact, the entire life of the OLF predated Abdul  
18 Odeh.

19 A. He was not involved, he did not work for the HLF, to my  
20 knowledge, when they were the Occupied Land Fund.

21 Q. Right. And he was not in the Philadelphia meeting.

22 A. He was not at the Philadelphia meeting, no.

23 Q. And there is nothing to suggest that he was a member of  
24 the Palestine Committee.

25 A. I think we saw him on a couple of the earlier videotapes

1 in the audience at some of these festivals; however, I have  
2 not seen him on any documentation as a member of the Palestine  
3 Committee.

4 Q. Right. And these videos, though, they weren't Palestine  
5 Committee videos. They were IAP videos. Right?

6 A. They were videos of IAP videos, which of course we have  
7 stated the IAP was part of the Palestine Committee.

8 Q. Perhaps I am not being clear in my question. The  
9 Palestine Committee is pretty well set out in those Elbarasse  
10 documents. Right? And the al-Ashqar documents.

11 A. Those lists are not exclusive, but those documents do  
12 identify a number of members of the Palestine Committee.

13 Q. And all of those, like the flow charts Ms. Moreno was  
14 showing you, the organizational charts of the Palestine  
15 Committee. Right?

16 A. Correct.

17 Q. Odeh's name is not on those.

18 A. No, it is not.

19 Q. And he is not on the board or an incorporator of the  
20 UASR.

21 A. That is correct.

22 Q. Not an incorporator of the IAP.

23 A. That is correct.

24 Q. It wasn't even an incorporator of the Holy Land  
25 Foundation.

1 A. That is correct.

2 Q. And when I say an incorporator, his name being in the  
3 articles of incorporation.

4 A. That is correct.

5 Q. Wasn't on the board of directors of the Holy Land  
6 Foundation.

7 A. That is correct.

8 Q. I am showing you now Secretary of State Texas No. 4. Do  
9 you see that?

10 A. I do.

11 Q. And this is a certificate of authority for a non-profit  
12 corporation dated November 18, 1992.

13 A. That is correct.

14 Q. And this is when the California corporation, which was  
15 the Holy Land Foundation, came to Texas.

16 A. That is correct.

17 Q. And Odeh's name is not on this.

18 A. It is not.

19 Q. This is New Jersey -- Secretary of State New Jersey No.  
20 1, which is already in evidence. Right?

21 A. I believe it is.

22 Q. And this is filed June 2nd, 1994. True?

23 A. That is correct.

24 Q. And what it is is the same thing we just saw, except for  
25 New Jersey, when the Holy Land Foundation went to get a

1 certificate of authority to work in New Jersey.

2 A. Yes.

3 Q. And New Jersey is where Odeh worked. Right?

4 A. That is correct.

5 Q. You said he was the only employee at the New Jersey  
6 office.

7 A. As far as I know he was, yes.

8 Q. And when they went to get the certificate of authority,  
9 Odeh is not even on the New Jersey one. Right?

10 A. He is not on this document, no.

11 MR. JONAS: Your Honor, I don't believe that  
12 document is in evidence. I have no objection if he wants to  
13 move it into evidence.

14 MR. WESTFALL: I checked these lists twice. If it  
15 is not in evidence, do you want me to move it in on your  
16 behalf?

17 May I approach the witness?

18 THE COURT: Sure.

19 Q. (BY MR. WESTFALL) I am showing you what is marked --  
20 just look and make sure it is the same one that you --

21 A. I have seen this before.

22 MR. WESTFALL: Your Honor, I move Government's  
23 Exhibit Secretary of State New Jersey No. 1 into evidence.

24 MR. JONAS: No objection.

25 THE COURT: Admitted.

1 MR. WESTFALL: I apologize.

2 This one is in evidence, isn't it? It is Ashqar Search  
3 No. 6, which is a phonebook.

4 Q. (BY MR. Westfall) Do you want to see the English part?

5 A. I see what it is. I am waiting for somebody to tell me  
6 if it is admitted or not.

7 THE COURT: I don't show it as in evidence. I could  
8 be off after yesterday afternoon, but I don't show it in,  
9 counsel.

10 MR. WESTFALL: Really? Do you want me to move this  
11 one in?

12 Your Honor, let me show it to her.

13 THE WITNESS: Okay.

14 MR. WESTFALL: Your Honor, I move for the admission  
15 of Government's Exhibit Ashqar Search No. 6.

16 MR. JONAS: No objection.

17 MS. MORENO: Your Honor, may we approach?

18 THE COURT: Yes.

19 (The following was had outside the hearing of the  
20 jury.)

21 MR. CLINE: Your Honor, I didn't cross this witness,  
22 but may I speak to this objection.

23 THE COURT: Sure.

24 MR. WESTFALL: I will withdraw the offer.

25 MR. CLINE: I certainly don't want to interfere with

1 Mr. Westfall's cross, but we have a series of objections to  
2 these Ashqar exhibits on FISA grounds and hearsay grounds and  
3 all kinds of other grounds.

4 MR. WESTFALL: And I will withdraw the offer.

5 THE COURT: All right.

6 (The following was had in the presence and hearing  
7 of the jury.)

8 MR. WESTFALL: Your Honor, I withdraw the offer of  
9 Ashqar Search No. 6.

10 THE COURT: All right.

11 MR. WESTFALL: Lest I get beat up.

12 May I confer with Mr. Jonas?

13 THE COURT: Yes.

14 Q. (BY MR. WESTFALL) Is it safe to say that Abdul Odeh is  
15 not in Mr. Ashqar's phonebook?

16 A. I did not see his name in there, no.

17 Q. Okay. And then this here is Mr. Marzook's phonebook.

18 A. I am sorry. I thought you were asking me about Marzook's  
19 phonebook.

20 Q. Mr. Ashqar's phonebook. Ashqar had one, too, that they  
21 got out of his house in '93.

22 A. The document we are not bringing in?

23 Q. Exactly.

24 A. I don't think so.

25 Q. Okay. And then this one here is the Marzook's phonebook.

1 He is not in Mr. Marzook's phonebook?

2 A. I don't recall seeing his name in there.

3 Q. Okay. Now, I want to show you what I am convinced is in  
4 evidence is Holy Land Search No. 2.

5 A. Okay.

6 Q. And this is kind of a spreadsheet of all of the  
7 employees, at least all the employees of Holy Land that are on  
8 this sheet. Right?

9 A. I wouldn't want to say it is all the employees, but it is  
10 a list of HLF employees.

11 Q. That is why I said at least all of them on this sheet.

12 A. Right.

13 Q. Here is another one where I kind of highlighted the line  
14 where Abdul Odeh is.

15 A. Okay.

16 Q. He was the New Jersey representative. Right?

17 A. That is correct.

18 Q. This is another one where -- You mentioned also -- It is  
19 the same thing. I have just done some highlighting on it.  
20 You mentioned also there were several different state  
21 representatives at I guess different times. Right?

22 A. Yes. The HLF had representatives in some states. In  
23 some states it had offices. So there was a difference.

24 Q. So here Abdullatif Alkosari who looks like -- The MI, is  
25 that Michigan?



1 A. It is.

2 Q. And then Abdul Odeh. And Ahmad Hatem in Florida. Right?

3 A. That is correct.

4 Q. And then this one here is a California representative?

5 A. Yes.

6 Q. And I think you even mentioned Kifah Mustapha who is the  
7 Illinois representative?

8 A. That is correct.

9 Q. So there -- He is one of eight representatives that are  
10 on this page, I guess. Right?

11 A. That looks about right. I didn't count them, but it  
12 looks about right.

13 Q. And this was the Holy Land Foundation Search No. 1. Do  
14 you remember this? This came in your first day.

15 A. I do.

16 Q. And this is called a service agreement, but it is an  
17 agreement between Abdul Odeh and Shukri Baker as to what his  
18 job would be.

19 A. That is correct.

20 Q. And I want to talk about it a little bit.

21 A. Okay.

22 Q. Now, I am going to zoom it in some and we will move down  
23 the document. This will make it easier to see.

24 First of all, it looks like he has agreed to a monthly  
25 fee of \$2,079. Roughly would be \$25,000 a year; a little less

1     than \$25,000 a year.

2     A.     That is correct.

3     Q.     And then these are sort of the things that he has agreed  
4     to do, or at least the duties that are set out.

5     A.     That is correct.

6     Q.     Is to manage the HLF office in New Jersey; to build and  
7     develop public relations in the New York and New Jersey area;  
8     to market and present HLF literature, programs, and projects?

9     A.     That is correct.

10    Q.     And solicit specific donations on behalf of HLF and to  
11    facilitate HLF guest needs, which basically translated to  
12    running speakers around. Right?

13    A.     He was the person responsible for the HLF speakers when  
14    they came into the area.

15    Q.     Get them from the airport and get them to the mosque.  
16    And that was Abdul who was doing that?

17    A.     And I believe he was also responsible for getting them  
18    set up with the venues where they were supposed to speak and  
19    things like that.

20    Q.     It looks like, at least initially, we were on like an  
21    independent contractor status. Yes, he had to report to the  
22    headquarters. Right?

23    A.     That is correct.

24    Q.     Mohammad El-Mezain supervised his work and issued  
25    specific instructions. And then we know at some point he

1     became an employee.

2     A.    Yes.

3     Q.    Now, I gave you a notebook, and would you please look in  
4     it? I did that so hopefully it will make it easier on you.  
5     It has got two exhibits in it. One is No. 1016 and one is  
6     No. 204, and they are separated by those tabs.

7     A.    Okay.

8     Q.    And those are both exhibits, those are both documents  
9     that you have seen before.

10    A.    I definitely recognize this one on top.

11    Q.    Take a look at that No. 204 there. Does it have the HLDL  
12    bates stamp on it?

13    A.    It does. I have seen it before, but I am not really  
14    fresh on what is in here. So if you want to ask me questions,  
15    I would like to look into it.

16    Q.    I have to get it in evidence first. Does it appear to be  
17    Abdul Odeh's personnel file?

18    A.    It does.

19           MR. WESTFALL: Your Honor, at this time I will move  
20    for admission of Defendants' 1016 and Defendants' 204.

21           MR. JONAS: No objection.

22           THE COURT: Those are admitted.

23    Q.    (BY MR. WESTFALL) Let's go to No. 1016 first.

24    A.    Okay.

25    Q.    Now, it -- And I am looking at HLF Search again. Okay?

1 A. Okay.

2 Q. And it said here that "Will present monthly reports of  
3 all activities," but what ended up happening was weekly  
4 reports.

5 A. During the time period of this exhibit it appears that he  
6 was giving weekly reports.

7 Q. And the exhibit we are talking about there is No. 1016.

8 A. That is correct.

9 Q. I would like to go through some of those weekly reports  
10 with you.

11 A. Okay.

12 Q. So go to page 12. And I am going to put this on the  
13 document viewer, too, in case you --

14 A. Okay.

15 Q. Now, this is pages 12 and 13. Let me go out so you can  
16 see it. And this is one of the weekly reports. Right?

17 A. It is.

18 Q. And it has two pages, and we will go through these in a  
19 sec?

20 A. Okay.

21 Q. This particular weekly report covers the period of time  
22 from June 1st to June 7th of 1996. True?

23 A. That is what it says, yes.

24 Q. And on this first section we have an overview of office  
25 hours and revenue generated for the week.

1 A. Correct.

2 Q. That is what it says?

3 A. That is what it says.

4 Q. And here we have a section where Odeh had to -- how many  
5 times did he contact the headquarters office during the week.  
6 So he apparently had to keep track how often he called  
7 headquarters on this sheet.

8 A. I don't know if he had to, but obviously he did in this  
9 instance.

10 Q. Okay. And then "what was it regarding when you called,"  
11 that is also on the sheet.

12 A. That is correct.

13 Q. Here in the office, office work, we just see I guess kind  
14 of general stuff where he had to keep track of hours and such.  
15 Right?

16 A. Again, I don't know if he had to, but he did.

17 Q. Right. And the second page has some other categories.  
18 One is field work, and displaying a booth in the masjid that  
19 means mosque. Right?

20 A. That is correct.

21 Q. So displaying a booth at a mosque or another place of  
22 worship.

23 A. That is correct.

24 Q. And then a coin collection, you know that he had coin  
25 boxes in different places where he had to tend to.

1 A. Yes, you are correct.

2 Q. Like stores, grocery stores and such?

3 A. Things like gas stations where they would place the coin  
4 boxes for donations.

5 Q. And keep track of the needy family sponsorships and  
6 orphan sponsorships and mailing lists, sending new names down  
7 to headquarters so they can get on the list.

8 A. Correct.

9 Q. Now, this is June 7th of '96. It references a trip to  
10 Egypt. Now, Odeh went to Egypt and took a relief mission to a  
11 U.N. Camp there, didn't he?

12 A. He did.

13 Q. And that was called the Canada Camp.

14 A. I believe that is correct.

15 Q. This is page 18 out of the same exhibit. You see here  
16 where he contacted the headquarters about orphans?

17 A. I see that.

18 Q. Now, when Odeh would contact the headquarters about  
19 orphans, the person he would talk to is Ibrahim al-Samnah Does  
20 that name ring a bell?

21 A. That does. He was an officer at the HLF.

22 Q. And he was like the orphan director?

23 A. At one point he was, yes.

24 Q. Which means that he was the one that I guess stayed in  
25 touch with Palestine and got the orphan applications. Does

1     that make sense?

2     A.    I believe at one time that was part of his duties, but I  
3     am not -- I haven't looked at that in a while, so I don't know  
4     exactly what he did in obtaining the orphan sponsorship, but I  
5     believe his exact title was social services director.

6     Q.    All right.  And the orphans that the Holy Land Foundation  
7     represented, I mean, you have seen the records of all the  
8     orphan applications that are in those 500 boxes of bankers  
9     boxes, haven't you?

10    A.    I have seen a number of lists of orphans.

11    Q.    There was orphans there not only from Palestine but also  
12    from Kosovo.  Right?

13    A.    I am trying to recall.  I know they did administer aid in  
14    Kosovo at one time, but I don't recall specifically seeing an  
15    orphan's list from Kosovo.  There may have been one, but I  
16    don't recall offhand.

17    Q.    And there was also Jordan?

18    A.    I recall seeing some orphans lists from Jordan in the  
19    boxes.

20    Q.    And also from south Lebanon?

21    A.    I recall seeing some from Lebanon.

22    Q.    And they did a number of other things outside of  
23    Palestine, like Bosnia.  They did some relief work in Bosnia?

24    A.    They did some.

25    Q.    Now, this is page 20 of the same exhibit.  You see here

1 where it says "quarterly meeting and the headquarters."

2 A. I do.

3 Q. Odeh would go four times a year to Dallas for these  
4 meetings at headquarters, wouldn't he?

5 A. I have seen records indicating he traveled to Dallas for  
6 the meetings. I don't know if he always traveled four times a  
7 year or if there were more or less, but generally he traveled  
8 to headquarters for meetings.

9 Q. Right. And in fact, AMEX 1 in evidence. AMEX 1, page  
10 30, if you want to pull that up or take my word for it, that  
11 is Shukri's and the HLF American Express bill, AMEX 1.

12 A. That is what AMEX 1 is. That is correct. That is the  
13 HLF AMEX records, the set we talked about yesterday.

14 Q. Page 30, it says A. Odeh, and says Newark to Dallas,  
15 Dallas to Newark where it says HLF bought him plane tickets to  
16 come to Dallas.

17 A. I have to take the word for the page numbers, but I have  
18 seen the records where they paid for his plane ticket.

19 Q. Under here there is this a thing here called ICNA  
20 convention. Now, that is the Islamic Circle of North America.  
21 Right?

22 A. That is correct.

23 Q. And they would have conventions, maybe not the exact same  
24 ones that we have seen these videos of, but there was a number  
25 of different organizations that had conventions where speakers



1 would come in and they would have dinner and fund-raise.

2 Right?

3 A. I have not seen any videotapes of ICNA conventions that I  
4 can recall, so I am not sure exactly what they did at their  
5 conventions, but I am sure they had fundraising activities at  
6 their conventions.

7 Q. Right. But there was ICNA and MAYA and the IAP?

8 A. In the early years I think MAYA and IAP were the ones --  
9 Are you asking specifically about HLF, or are you asking about  
10 ICNA? I just want to be clear.

11 Q. I am just asking about in general there are more than  
12 just the IAP that had conventions. And, I mean, if you know  
13 you know. But like here is a reference to the ICNA  
14 convention. You know that ICNA has conventions. Right?

15 A. Yes. I know -- Well, I have not seen any videos of them,  
16 so, I mean, I understand from paperwork like this that ICNA  
17 did hold conventions, but I have not seen any videos of them.

18 Q. And you know that Odeh would go and work at these  
19 conventions. Right?

20 A. Are we talking about all of them or just the ICNA.

21 Q. At least the ones where he said he worked. You know he  
22 worked at conventions.

23 A. I do know he worked at conventions.

24 Q. On behalf of the Holy Land Foundation.

25 A. Yes.

1 MR. WESTFALL: Your Honor, may I approach?

2 THE COURT: Yes.

3 Q. (BY MR. WESTFALL) I show you Defendants' No. 697?

4 A. Okay.

5 Q. Is that a photograph?

6 A. It is a photograph.

7 Q. And is that a photograph containing your bates label that  
8 you all put on everything?

9 A. It does. It was seized in the HLF search warrant.

10 Q. And that photograph there, I mean, you recognize the Holy  
11 Land Foundation logo across the top of this booth.

12 A. That is their logo, yes.

13 Q. Okay.

14 MR. WESTFALL: Your Honor, I move for admission of  
15 Defendants' 697.

16 MR. JONAS: Your Honor, based upon our previous  
17 objection, we are going to object.

18 THE COURT: You have that objection. I have  
19 overruled that. No. 697 is admitted.

20 MR. WESTFALL: Thank you, Your Honor.

21 Q. (BY MR. WESTFALL) Now, I am going to put No. 697, which  
22 is that photograph we were just talking about, on the elmo.  
23 Can you see this okay?

24 A. I do.

25 Q. It is a little bit washed out. But see how it has got

1 the Holy Land Foundation across the top there are?

2 A. I do.

3 Q. And these are all photographs. And you see, does it look  
4 like handicrafts and stuff there on the desk, on the table?

5 A. The screens on these monitors are not the best, but that  
6 is what it appears to be.

7 Q. Okay. And this is the type of booth that the Holy Land  
8 -- In fact, this is an exact booth that the Holy Land would  
9 set up at these conventions.

10 A. I never saw the booths that they set up at the  
11 conventions, and I know this picture came from the HLF search  
12 warrant material and it is of a booth, but as far as if that  
13 is what they set up at the conventions, I never saw one so I  
14 don't know if that is what they look like or not.

15 Q. Okay. So back to No. 1016 here, on Friday 7/5 traveled  
16 to Fong Valley to attend the ICNA convention.

17 A. I see that.

18 Q. And you have seen this photograph before, haven't you?

19 A. I have.

20 Q. Okay. Here is pages 22 and 23 of the same exhibit. He  
21 is writing down that he has called the home office again about  
22 the ICNA convention, and then on page 23 displayed the booth  
23 during the community activity which was the ICNA.

24 A. Yes, that is correct.

25 Q. Now, this is page 26 of this same thing. We are up to

1 July of 1996 now. Right?

2 A. Correct.

3 Q. And he is calling now and he is putting in his report  
4 that he is asking for an orphan from Nablus.

5 A. That is correct.

6 Q. And in the work that you have done and what you have seen  
7 in the 500 boxes, it is not unusual for a person who is going  
8 to sponsor an orphan to request a particular type of orphan.

9 A. I have seen that donors request specific type of orphans.

10 Q. Right. And also request, "I want an orphan who is a  
11 girl," or "I want an orphan who comes from Palestine," or "I  
12 want an orphan who comes from a specific place in Palestine."

13 A. I have seen them make specific requests, yes.

14 Q. Here on page 28 now, he is calling the headquarters or  
15 writing down that he has called the headquarters because  
16 somebody has asked for a martyr's family, specifically a  
17 shahid's family?

18 A. Correct.

19 Q. And we see that also, don't we?

20 A. Yes, we do.

21 Q. And when we are talking about a martyr's family, from  
22 what we have seen in I guess the advertising and such that the  
23 Holy Land did, we are talking about like, for instance, the  
24 al-Aqsa massacre. Which I am not going to ask you if you are  
25 familiar with that, other than have you seen references to

1     that in like the literature, in their materials?

2     A.    I have seen references to it.

3     Q.    Okay.  And the al-Ibrahimi mosque massacre.  And these  
4     are things that would fall under the definition of martyr.

5     A.    I have seen that they do reference some of those  
6     individuals as martyrs, as well as other individuals like bomb  
7     makers' children.

8     Q.    Here two weeks in a row where he is calling and asking  
9     for orphans.  We see this all over the place, don't we?  I  
10    mean, these orphans -- Mr. Odeh, I mean, that was one of his  
11    job duties was to have people to get sponsors for orphans.

12    A.    Yes, it was.

13    Q.    Here is page 34 of the same exhibit.  He is about to  
14    start work with -- start doing another convention.  This one  
15    is an IAP convention.

16    A.    It says an IAP activity so -- Let's see.  Hold on.  It is  
17    an activity in the mosque.  I don't know that it would be  
18    considered a convention, but it was an IAP activity.

19    Q.    Right.  And, you know, we have seen the ICNA now and the  
20    IAP and talked about the MAYA.  Those were the ones who really  
21    had the conventions.  Right?

22    A.    I don't know about ICNA conventions until later in the  
23    '90s, but I know in the late '80s early '90s that MAYA was one  
24    of the organizations in this community that held yearly  
25    conventions at which the HLF participated and that the IAP

1 held festivals, what they called festivals, during that time  
2 period, and that in approximately 1994 the IAP began to have  
3 its own yearly convention at which the HLF participated. I  
4 have not seen information about ICNA conventions during that  
5 time period. There may have been some, but --

6 Q. But I think you just said it there, that the IAP had the  
7 convention and then HLF participated.

8 A. That is correct.

9 Q. There is one where this fellow I mentioned to you,  
10 Ibrahim al-Samnah that is probably who he is referring to  
11 there. He calling and asking Ibrahim about orphans.

12 A. Ibrahim al-Samnah the HLF handled social services, so  
13 that would stand to reason, but I don't know that that is for  
14 sure who it is.

15 Q. Chances are. But there was also people who would call  
16 and specifically request like a martyr's child or martyr's  
17 family. "I specifically want to sponsor a martyr's family."

18 A. Yes.

19 Q. You know, in addition, let me also -- In addition to the  
20 orphan sponsorships, there also were family sponsorships.

21 A. There were.

22 Q. And there were needy child sponsorships?

23 A. Correct.

24 Q. And there were student sponsorships. Right?

25 A. That is correct.

1 Q. Eid gifts -- Do you know what Eid is?

2 A. Like a holiday. They were -- Yes.

3 Q. Breaking of the end of Ramadan is the Eid.

4 A. One of them.

5 Q. And the Holy Land Foundation would also go out and  
6 distribute gifts for that as well.

7 A. According to the documentation that I have seen, that is  
8 what they did.

9 Q. And they would also do food packages.

10 A. Food packages were one of their programs that they had  
11 listed in their documentation.

12 Q. And school bags and school books and stuff like that?

13 A. Those were also listed, yes.

14 Q. Here is one, page 56. Someone is asking specifically  
15 asking about the orphans from the Aqsa massacre.

16 A. Actually based on this time frame, which was in 1996, I  
17 don't think that would be the al-Aqsa massacre. That was more  
18 likely another event that happened. There was an uprising in  
19 1996 and people were killed during that uprising. I think  
20 that would probably be what that is referencing. I can't say  
21 for sure, but I know that the massacre that you are  
22 referencing happened many, many years before this.

23 Q. Really? All I am asking about is what is on the paper.  
24 What do you know about the al-Aqsa massacre?

25 A. Well, I don't know which one that is referencing. If we

1 are talking about the time period in September of 1996, which  
2 is right after that, there was an uprising that occurred as a  
3 result of some tunnels around the al-Aqsa mosque, and fighting  
4 broke out and many of the people who were fighting ended up  
5 getting killed.

6 Q. Here we are talking about a MAYA convention. Right?

7 A. Correct.

8 Q. And this would be an example I guess of Odeh, one of his  
9 job duties being to take speakers around.

10 A. That is correct.

11 Q. This is page 76 of the same exhibit, and here he  
12 references leaving on 1/15/97 and traveling to Jordan. Do you  
13 see that?

14 A. I do.

15 Q. And in 1997, which is this, he went to Jordan and went  
16 and visited more U.N. refugee camps?

17 A. I know he traveled to Jordan for the HLF on their behalf  
18 to administer aid, but I do not recall which camps he visited  
19 or if he actually visited camps.

20 Q. Okay. And then this, did you know he went to Jordan  
21 twice in that year of 1997? You knew he made two trips to  
22 Jordan. Right?

23 A. I recall that he made one and possibly two, but I don't  
24 know the dates of those.

25 Q. Okay. Do you have any reason to doubt, though, that '97



1 is the correct year?

2 A. No, I do not.

3 Q. Now, let's move along --

4 A. Okay.

5 Q. -- into No. 204.

6 A. Okay.

7 Q. And this is Odeh's personnel file. And there were a  
8 number of people at the Holy Land Foundation that Abdul had to  
9 answer to that -- what I am trying to get to is where he is in  
10 the hierarchy. Okay?

11 A. Okay.

12 Q. Obviously he had to answer to Shukri.

13 A. Yes.

14 Q. And obviously he had to answer to El-Mezain.

15 A. That is correct.

16 Q. This is page 8. These page numbers are in the lower left  
17 hand corner. He also had to answer to Akram Mishal. Right?

18 A. I am sorry. Bear with me, because I think -- My copies  
19 the page numbers are really light so -- I think I have it.

20 Q. Do you have it?

21 A. I think I did find it. Yes, I did.

22 Q. Okay. It is a June 16, 1998 letter. Obviously he had to  
23 answer to Akram Mishal. Right?

24 A. He was also one of the directors at the HLF, yes.

25 Q. This is Haitham Maghawri. And he was also one of his

1 bosses.

2 A. I don't know if you would consider him a boss, but  
3 obviously he had some type of authority, based on this, over  
4 Mr. Odeh's activities.

5 Q. Now, in addition to the Egypt and Jordan we already  
6 talked about -- Well, let me do this, first of all. Please go  
7 to page 76.

8 A. Okay. Can you tell me what the title of the page is,  
9 because I am not seeing my page numbers down here.

10 Q. Are you really not?

11 MR. WESTFALL: May I approach, Your Honor? I can  
12 help her out.

13 THE COURT: Yes.

14 THE WITNESS: Unless I am missing it.

15 Q. (BY MR. WESTFALL) Also I can just put this on the  
16 document camera. This would be Odeh's resume. Right?

17 A. That is correct.

18 Q. And it shows him he came over from Kuwait in 1982 to the  
19 United States.

20 A. Yes. It indicates he was in Kuwait from 1977 through  
21 1982.

22 Q. And of course he became a U.S. citizen in the '80s.  
23 Right?

24 A. He did.

25 Q. And then the previous page, this is the last page of his

1 employment application with the Holy Land Foundation.

2 A. Correct.

3 Q. And it shows his date of employment to be 2/1/94.

4 A. That is what it says.

5 Q. And this spreadsheet kind of -- It says 1/1/94.

6 A. It did.

7 Q. But it was 2/1/94. There is no question that he became  
8 an employee on 2/1/94, is there.

9 A. That is the date that this document is signed that  
10 indicates February 1st, 1994.

11 Q. Right. That is also the date of the service agreement as  
12 well.

13 A. It was. Correct.

14 Q. Now, I want to -- I didn't make a copy of this for you.  
15 I want to go to HLF Search No. 94.

16 A. Okay.

17 Q. And what it is is the Sultan Mahmoud mailer.

18 A. Okay.

19 Q. Okay? And on page 6 of that is this letter. And this is  
20 a letter that the Holy Land Foundation sent, and it is a  
21 fundraising letter. Right?

22 A. Correct.

23 MR. JONAS: Your Honor, I am not sure this one is  
24 in.

25 MR. WESTFALL: Yes, it is.

1 MR. JONAS: What is the exhibit number?

2 MR. WESTFALL: HLF 94.

3 MR. JONAS: Sorry.

4 Q. (BY MR. WESTFALL) Okay. What this is talking about is  
5 the situation in Kosovo where all the refugees were running  
6 away from the Serbs from Slobodan Milosevic. Wouldn't you  
7 agree?

8 A. That is correct.

9 Q. And this particular humanitarian mission, the Kosovo  
10 mission, Abdul Odeh went to Kosovo and worked on that.

11 A. I believe that he did, yes.

12 Q. And when he went there, he took flour and a bread machine  
13 and facilitated them being able to make their own bread.

14 A. That is correct.

15 Q. And he also took two ambulances, or they called them  
16 mobile clinics, ambulances like the EMTs use, with all the  
17 stuff in them.

18 A. I don't know what they had in them, but I saw that they  
19 did take some ambulances.

20 MR. WESTFALL: May I approach, Your Honor?

21 THE COURT: Yes.

22 Q. (BY MR. WESTFALL) I am showing you No. 750, No. 491, and  
23 then No. 1005.

24 A. Okay.

25 Q. On No. 1005, do you recognize the Holy Land Foundation

1 logo?

2 A. I do.

3 Q. And you have seen that picture before?

4 A. Yes.

5 Q. And on the other two, do you recognize Abdul Odeh in both  
6 of those pictures?

7 A. I do.

8 Q. And you have seen those before?

9 A. I have.

10 MR. WESTFALL: Your Honor, we move for admission of  
11 Defendants' Exhibits No. 491, 750, and 1005.

12 MR. JONAS: Your Honor, the same objections.

13 THE COURT: Okay. Those are overruled and those  
14 exhibits are admitted.

15 Q. (BY MR. WESTFALL) This is Exhibit No. 750. And is that  
16 Abdul Odeh there?

17 A. It is.

18 Q. And of course, Kosovo is not in the Middle East. It is  
19 in eastern Europe.

20 A. That is correct.

21 Q. And you recognize Abdul Odeh here?

22 A. I do.

23 Q. And then this is the New Jersey office. Right?

24 A. That is correct.

25 Q. And you know that in 1999 Abdul opened a pantry up there.

1 A. I can't recall a specific date, but he did open a pantry  
2 for the HLF.

3 Q. Right. And you know this was a pantry where people would  
4 come to get food.

5 A. I think that was the stated purpose.

6 Q. Okay. And you know that people did go there and get  
7 food?

8 A. I have seen videotape of its opening. I don't know that  
9 people came there on a regular basis. I don't know a lot of  
10 details about the pantry other than the opening of it.

11 Q. You said you have seen a videotape?

12 A. I have.

13 Q. And you wouldn't know just from looking at the DVD, I  
14 don't guess.

15 MR. WESTFALL: May we approach for a second, Your  
16 Honor?

17 THE COURT: Yes.

18 (The following was had outside the hearing of the  
19 jury.)

20 MR. WESTFALL: This is the video that she just said  
21 she had seen, and we didn't get a chance to talk about my  
22 videos because I ended up cross examining a lot faster than I  
23 thought I would. This is the video of the pantry opening that  
24 she just said she has seen before, and I would like to move it  
25 into evidence.

1           MR. JONAS: This is the problem. She saw it during  
2 the cross examination last year. I don't know if there is any  
3 evidence that she has seen it outside of last year's trial,  
4 and that doesn't authenticate it. And she maybe can recognize  
5 Odeh or El-Mezain on it, but she can't talk about what is  
6 going on other than Mr. Westfall leading her through it, as  
7 with the pictures where all she can say is what just went into  
8 evidence "That is Odeh." But Mr. Westfall through his  
9 questioning not even suggested, he said, "This is in Kosovo."  
10 She can't say that, so there is this impression being left to  
11 the jury about facts that Agent Burns isn't testifying to, and  
12 that is the problem.

13           THE COURT: How long is this video?

14           MR. WESTFALL: Well, it is actually a whole lot  
15 longer than what I would publish. I would like to put the  
16 video in now.

17           THE COURT: Can she identify that as -- I know she  
18 has seen it, but did she identify -- She could tell that was  
19 the opening of that pantry?

20           MR. WESTFALL: She did last year. I have a record  
21 of her doing it. Now, what we did last year was gave her the  
22 cassette tape, because it was one that they seized, and this  
23 is a DVD minute-to-minute recording of that one that they  
24 seized, and we gave her the videotape, let her have it  
25 overnight, she watched it, she made herself satisfied that is

1     what it was, and the next day I came in, put it in actually  
2     without objection. And so yeah, she has seen or at least told  
3     me she has seen the whole thing the night before when I gave  
4     it to her. And Exhibit No. 993 is the same Exhibit No. 993  
5     that we put in last year.

6             THE COURT: And she testified that she could tell  
7     that this was from that opening of the pantry. And how much  
8     do you intend to play?

9             MR. WESTFALL: Maybe five minutes of it.

10            THE COURT: Okay. All right. If you can get her to  
11    establish that, I will let you do that.

12            (The following was had in the presence and hearing  
13    of the jury.)

14            THE COURT: What exhibit number is this, again,  
15    counsel.

16            MR. WESTFALL: This is Exhibit No. 993, Your Honor.

17            May I approach?

18            THE COURT: Yes.

19    Q.     (BY MR. WESTFALL) This is a DVD, and there was a time  
20    when you -- First of all, this was a tape -- The original  
21    videotape was a tape that you all seized, or a tape that you  
22    all had in your possession. Isn't that true? The pantry  
23    videotape?

24    A.     I am not sure. I would have to see the original  
25    videotape to tell you if it was part of what was seized or



1 not.

2 MR. Westfall: May I, Your Honor, refresh her  
3 recollection? May I approach?

4 THE COURT: Yes.

5 Q. (BY MR. WESTFALL) Did that refresh your recollection  
6 that you had seen it before?

7 A. I remember that I did see it, but I just didn't recall  
8 where it came from, but that reminds me that it did come from  
9 the search warrant.

10 Q. Okay. So now you know it came originally from you all's  
11 possession, and that is the DVD of that?

12 A. That is correct.

13 MR. WESTFALL: Your Honor, I move for admission of  
14 Defendants' No. 993.

15 THE COURT: Same objection, and that has been  
16 overruled. You may display a bit of that. That is admitted.

17 MR. WESTFALL: And I won't publish this at this time  
18 because I don't have it queued up in my computer, so I will  
19 press on and do that after a bit.

20 THE COURT: Okay.

21 Q. (BY MR. WESTFALL) Now, you mentioned to maybe it was Ms.  
22 Moreno the number of FISA wiretaps that there were, didn't  
23 you?

24 A. We spoke about it, I believe.

25 Q. You said there was a wiretap on Shukri?

1 A. That is correct.

2 Q. That was about nine years?

3 A. I believe that one was shorter because I believe it  
4 started in '94, '95, and I think it ended in 2001. But again,  
5 I was not here so I am -- The dates are estimates, so bear  
6 with me.

7 Q. And I was thinking about Mr. El-Mezain. It was Mr.  
8 El-Mezain's that was about nine or ten years.

9 A. I believe that is correct. I think it started in '94 and  
10 ended in approximately 2003.

11 Q. And then Shukri's was about five or six years?

12 A. That is correct.

13 Q. And these -- And then the Holy Land was also surveilled  
14 for how many years?

15 A. It was a couple of years later on, but I am not sure of  
16 the exact date. I think it was around 2000, 2001.

17 Q. These FISAs, these run, as long as you have them, they  
18 run 24 hours a day, don't they?

19 A. Yes.

20 Q. And they go in three-month increments?

21 A. I am not sure about that. I have never administered a  
22 FISA myself. I worked the criminal side.

23 Q. But when they do run, like they did for nine or ten  
24 years, or whatever, it is 24 hours a day seven days a week.

25 A. That is correct.

1 Q. And so literally thousands, tens of thousands of hours of  
2 conversation can be caught in this many FISA lines running.  
3 Wouldn't you agree?

4 A. With the number of FISA lines we had and the time frame,  
5 there were thousands of calls.

6 Q. It is like, I guess, one year at 24 hours a day seven  
7 days a week is almost 9,000 hours, just that.

8 A. I guess. I would probably need a calculator to calculate  
9 the number of hours.

10 Q. The language specialist then goes through and summarizes  
11 certain calls for you. Right?

12 A. That is correct.

13 Q. And you don't speak Arabic?

14 A. That is correct.

15 Q. And he summarizes them, or whoever it is summarizes them  
16 in English.

17 A. That is correct.

18 Q. And then you get the summary and you review them?

19 A. That is correct.

20 Q. And in this case you have reviewed up to -- upwards of  
21 10,000 summaries?

22 A. Probably close to it.

23 MR. Westfall: At this time, Your Honor, I would  
24 like to move into evidence Defendants' 1350.

25 MR. JONAS: No objection, Your Honor.

1 THE COURT: Admitted.

2 Q. (BY MR. WESTFALL) And one of those calls that you have  
3 testified to in court was El-Mezain Wiretap No. 2.

4 A. Correct.

5 Q. And this is the call where Abdul Odeh is calling Mohammad  
6 El-Mezain about doing something in Oklahoma City.

7 A. That is correct.

8 Q. I would like to just read through this call again.

9 A. Okay.

10 Q. And I will be Abdul and you be Mr. El-Mezain.

11 A. Okay.

12 "Hello?"

13 Q. "Peace be with you."

14 A. "Peace and God's mercy."

15 Q. "How are you, Sheik?"

16 A. "Good. May God bless you."

17 Q. "How are you?"

18 A. May God give you strength."

19 Q. "A little while ago I spoke with Shukri."

20 A. "Hmm."

21 Q. "So I don't know. I suggested to him that we must do  
22 something regarding this crisis in Oklahoma City."

23 A. "What do you want to do?"

24 Q. "If they can go there, distribute water to those who work  
25 there, send telegrams of condolence to the families of the

1 children who died or stuff, it is a good opportunity, Sheik,  
2 for us to be highlighted that we do something in America."

3 A. "Okay. Let the -- let them study the matter from over  
4 there."

5 Q. "Huh? No, I was just making a suggestion. They are not  
6 going to respond to us immediately, but --"

7 A. "Let the people --"

8 Q. "Because we said in the past in a meeting, my brother,  
9 that we must do something in America or contact the American  
10 Red Cross and tell them, 'Come, we would like to offer,'  
11 because they showed in the news that they are distributing  
12 food and water."

13 A. "Yes."

14 Q. "So why can't the Holy Land come, for instance, stand and  
15 distribute water and stuff?"

16 A. "It is close distance to them."

17 Q. "It is close to them. A four-hour car ride."

18 A. "They won't allow them."

19 Q. "Huh?"

20 A. "They won't allow them in the present time."

21 Q. "Okay. How about contacting the families of the children  
22 who died?"

23 A. "Yes. We can send cards or send something."

24 Q. "Yes. I mean, if we can benefit from the matter."

25 A. "It will be good, God's willing."

1 Q. Now, Defendants' 1350 is the exhibit I just put into  
2 evidence, and this is actually more of the conversation. I  
3 would like to finish it up.

4 A. Okay.

5 Q. And this is -- I will start here.

6 "Yes. I mean, if we can benefit from the matter."

7 "It will be good, God's willing." Through the  
8 highlighted part.

9 "Okay. You think about the matter."

10 A. "God's willing. God's willing."

11 Q. "It's like we're here. We are an American organization,  
12 and we're supposed to not only send stuff over there, but help  
13 stuff over here as well."

14 A. "God's willing, it will happen."

15 Q. "Anyway, this is what I see. Maybe --"

16 A. "May God honor you."

17 Q. "You guys are more aware of these things. It will be  
18 good."

19 A. "We will do something, God's willing."

20 Q. "I mean, just to improve things over here in the country.  
21 What's wrong with you? You sound tired."

22 And that is the end.

23 And the pantry, of course, was helping people in this  
24 country also. In New Jersey. Right?

25 A. I don't really know how to answer that, because I don't

1 know a lot about the pantry. I know that the documents state  
2 they opened a pantry there and, as we said, I have seen the  
3 opening video but I don't know specifically what aid they  
4 administered to whom.

5 Q. Did you also see that the Holy Land Foundation helped  
6 with the floods in Iowa?

7 A. They may have. I don't recall.

8 Q. And of course, this Oklahoma deal, they did quite a bit  
9 more than just send \$5,000.

10 A. As we talked about, they sent money and they had a blood  
11 drive and did some other things.

12 Q. And some folks actually did go up there?

13 A. Yes, they did.

14 Q. Now, there has been a couple of references made to how  
15 much material -- how many boxes of things that you have as a  
16 result of this investigation. Right?

17 A. Yes.

18 Q. And it is somewhere between 500 and 600 bankers boxes.

19 A. That is correct.

20 Q. In addition to that, I think there is thousands of  
21 videotapes.

22 A. Video and audiotapes, yes.

23 Q. Video and audiotapes. And taken out of Mr. Odeh's office  
24 up in New Jersey, I think we are looking at about 45 or 50  
25 boxes right there.

1 A. I think that is correct.

2 Q. Plus videotapes and whatnot?

3 A. Correct.

4 Q. I want to show you a picture that I know is in evidence.

5 MR. WESTFALL: May I confer with --

6 THE COURT: Yes.

7 MR. WESTFALL: For the record, this is the picture,  
8 this picture here that you talked about yesterday.

9 A. Yes.

10 Q. It was yesterday afternoon. Right?

11 A. I believe it was.

12 Q. Okay. And this is the one with Qaradawi and Nasrallah  
13 and Khalid Mishal?

14 A. That is correct.

15 Q. Now, this picture was found somewhere in Odeh's office.

16 A. That is correct.

17 Q. It was in one of those 45 or 50 boxes that you all have?

18 A. It was in one of the boxes, yes.

19 Q. And it has obviously been torn out of a newspaper.

20 A. Correct.

21 Q. And I guess in the translation it mentions that it is a  
22 Reuters photo.

23 A. Yes, it does.

24 Q. Reuters is one of those international news agencies, like  
25 AP.



1 A. It is.

2 Q. Do you have any idea when that is from, the photograph?

3 A. If I recall, it was from around 2000. I know it was  
4 seized in 2001, but we would need to look at it again to see  
5 if there was something on it to indicate the date.

6 Q. Didn't it say something about the Islamic conference in  
7 Beirut, Lebanon, something like that?

8 A. It did reference a conference in Beirut, Lebanon, but I  
9 can't recall if it referenced which conference. I know for  
10 sure it was seized in December of 2001.

11 Q. I can help you out on this, because I do have the  
12 translation.

13 A. Okay.

14 Q. The Islamic National Conference in Beirut on Friday,  
15 Reuters. The Islamic National Conference in Beirut, I guess  
16 that is where the picture was taken?

17 A. That would be, but there is no date noted on it so I am  
18 not sure of the date.

19 Q. Do you know anything about that Islamic National  
20 Conference in Beirut?

21 A. I don't know which one. I know of a Jerusalem Foundation  
22 Conference in January of 2001, but I don't know if that is the  
23 same conference, so I wouldn't want to speculate on that.

24 Q. This is HLF Search No. 31?

25 A. Correct.

1 Q. And this is the original of it. Now, this appears to be  
2 from 1990. Right?

3 A. Correct.

4 Q. Published by the Islamic Association for Palestine?

5 A. Correct.

6 Q. It gives some facts about Yassin.

7 Do you know how if you have something thumbtacked to your  
8 wall, it makes little holes?

9 A. Yes.

10 Q. There is no holes that would lead you to believe this was  
11 thumbtacked to the wall, is there?

12 A. I don't see any holes in it.

13 Q. And you know how if you have something framed how you get  
14 little fade marks around the edges?

15 A. I don't know about that. But it was not in a frame when  
16 we seized it, if that is what you are asking.

17 Q. Okay. So this flier, I guess, was in the files in his  
18 office, like that Nasrallah picture?

19 A. I don't know exactly where it was in his office.

20 Q. From 1990.

21 A. That is correct.

22 MR. WESTFALL: Do you have the original of HLF  
23 Search No. 14?

24 Q. (BY MR. WESTFALL) Okay. This here is HLF Search No. 14.

25 A. Correct.

1 Q. You discussed this yesterday as a booklet. This is of  
2 course in Arabic.

3 A. It was, yes.

4 Q. Now, the translation is the Jihadist School, and it  
5 speaks about this Izz el-Din al-Qassam.

6 A. Correct.

7 Q. Have you read this translation?

8 A. I have.

9 Q. Mr. Al-Qassam was born in Syria in 1871.

10 A. That is what it says.

11 Q. According to this book. Right?

12 A. Correct.

13 Q. And in all of the -- It kind of gives the history of him,  
14 what he did. In 1885 at the age of 14, went to Egypt. Right?

15 A. That is correct.

16 Q. And it discusses, you know, this treaty of 1916, the  
17 history of this, and kind of ends in the '40s, the early '40s,  
18 something like that.

19 A. I believe that is correct.

20 Q. And did you notice that in this entire translation the  
21 word Israel doesn't appear one time?

22 A. I didn't look for the word Israel.

23 Q. This guy fought against the British.

24 A. That is correct.

25 Q. Back in the British mandate, which was -- This is a

1 history book, I guess. Right?

2 A. The title of it is I believe the Jihadist School, so it  
3 is the history of this individual.

4 Q. By the way, at the end it has, and you testified to this,  
5 this Palestine Relief Fund.

6 A. Correct.

7 Q. And so that would have had at least been prior to 1989.

8 A. Correct.

9 Q. This is HLF Search No. 109.

10 A. Okay.

11 Q. This is a copy of it. Now, this is -- The copy in the  
12 English numbering that you all did down at the bottom, it  
13 appears to be roughly 250 pages long.

14 A. Okay. I don't have a copy in front of me, but I see --

15 MR. WESTFALL: May I approach?

16 THE COURT: Yes.

17 Q. (BY MR. WESTFALL) So it may be 260 pages long?

18 A. Something like that.

19 Q. Roughly?

20 A. Roughly.

21 Q. And of that we have eight pages of translation, if you  
22 count the title page.

23 A. I think that is correct. I can't remember specifically  
24 which one this is based on the cover. If I could look at the  
25 title page in English, it would help me remember which one it

1 is.

2 MR. WESTFALL: May I approach, Your Honor?

3 THE COURT: Yes.

4 THE WITNESS: Okay.

5 Q. (BY MR. WESTFALL) And since you don't speak Arabic,  
6 obviously somebody else translated it for you.

7 A. That is correct.

8 Q. And this is called the Palestinian Intifada in the Hebrew  
9 Press, and I think you said yesterday a Study About Hamas,  
10 which is I guess the subtitle. And this was published in 1991  
11 by the UASR.

12 A. Correct.

13 Q. And in it you actually published--or you -- Yeah, you  
14 published, you read part of this to the jury and it is a  
15 reporter speaking with Sheikh Yassin.

16 A. Correct.

17 Q. And this was Radio Israel on 9/23/89. Right?

18 A. That is correct.

19 Q. Where he is giving this statement. And it talks about  
20 when Hamas was established. And I don't know how far you  
21 read. You didn't read all of it though. Right?

22 A. I believe we stopped after -- because Mr. Jonas was  
23 asking me about the Palestinian Mujahideen.

24 Q. Okay. Do me a favor. Read the questions.

25 A. All of them?

1 Q. No, just start right here.

2 A. Okay. "Who among the known personalities in the West  
3 Bank and Gaza Sector are members of this movement?"

4 Q. "Whom do you mean?"

5 A. "Dr. Ibrahim al-Yazouri for instance?"

6 Q. "He is a member of Hamas in the political activity."

7 A. "Who else among the known person amounts took part?"

8 Q. "Among them is engineer Issa al-Ashqar, Dr. Abdel Aziz  
9 al-Rantisi, Abdel Fattah and Salah Shehatah."

10 A. "What is the relationship between the West Bank and Gaza  
11 Sector in regards to Hamas?"

12 Q. "A man called Jamil Hamami used to call us from the West  
13 Bank. He also used to convey information from our side."

14 A. "Is the ongoing coordination?"

15 Q. Now, this is Demonstrative No. 17.

16 A. Correct.

17 Q. And this Jamil Hamami I imagine is this person here?

18 A. It is.

19 Q. So in 1989 it doesn't appear as though Sheikh Yassin is  
20 saying "Hamami used to speak with us."

21 A. The next question is, "Is the ongoing coordination,"  
22 which I am assuming means is the coordination ongoing, and he  
23 says, "yes." So I don't think that indicates that it stopped  
24 in 1989.

25 Q. Clearly he said "Jamil Hamami used to call us from the

1 West Bank." Clearly he said that. Right?

2 A. That is what it says.

3 Q. And then we know at some point after that Hamami is  
4 coming to the United States.

5 A. That is correct in 1999, I believe.

6 Q. And then this book was from '91. Right?

7 A. I believe so.

8 MR. WESTFALL: Do you have the original of HLF  
9 Search No. 25?

10 Q. (BY MR. WESTFALL) Do you recognize this?

11 A. I do.

12 Q. This is the Sultan Mahmoud letter?

13 A. That is correct.

14 MR. WESTFALL: May I approach the witness, Your  
15 Honor?

16 THE COURT: Yes.

17 Q. (BY MR. WESTFALL) Does it appear to you -- I will just  
18 hand this to you.

19 A. Okay.

20 Q. Does it appear as though the letter was folded up in the  
21 envelope?

22 A. It has crease marks.

23 Q. It has creases like that is where it stayed. Right?

24 A. That is correct.

25 Q. I want to talk to you a little bit about the Sultan

1 Mahmoud letter.

2 A. Okay.

3 Q. Have you ever spoken with Sultan Mahmoud?

4 A. I have not.

5 Q. Sultan Mahmoud, let me show you something in here. In  
6 his letter he actually puts the word Sultan Mahmoud in  
7 quotation marks.

8 A. He does.

9 Q. And you notice right off, don't you, that the letter is  
10 in English and not Arabic?

11 A. That is correct.

12 Q. And this was sent to the New Jersey office, which is this  
13 2115, and Paterson, New Jersey.

14 A. Correct.

15 Q. From no return address.

16 A. That is correct.

17 Q. And the letter says modest. He wasn't lying there, was  
18 he? "This is for relief supplies and weapons to crush the  
19 hated enemy. Thank you." Is that what it says?

20 A. That is what it says.

21 Q. And then "nuclear weapons." And then what was included  
22 in the letter apparently was \$25. Stands to reason that MO  
23 No. 6 means money order.

24 A. That makes sense. I don't know if it was in the form of  
25 a money order or not, but it makes sense.



1 Q. So assuming that the money order also didn't have a  
2 return address, there is really not much that can be done with  
3 it other than just throw it away. Right?

4 A. I don't know if the money order -- If there was a money  
5 order, and I don't know if there were if it had a return  
6 address on it, so I wouldn't want to speculate about what  
7 could or could not have been done with it.

8 THE COURT: Let's go ahead and take the afternoon  
9 break. Be back at 4:00.

10 (Whereupon, the jury left the courtroom.)

11 THE COURT: We will be in recess until 4:00.

12 (Brief Recess.)

13 THE COURT: I understand counsel wants to take up a  
14 matter.

15 MR. JACKS: Yes, Your Honor.

16 THE COURT: Maybe a couple of matters.

17 MR. JACKS: Sorry. Did I cut in front of you?

18 MR. DRATEL: Your Honor, I understand that there are  
19 -- not myself, but others, some travel issues if we could  
20 break at 5:00, and I think the Government is in agreement.

21 THE COURT: I think I told the jury, and I mentioned  
22 yesterday that if we took the long lunch we would go until  
23 5:30 or 5:30, so I am not agreeing to 5:00. If you had told  
24 me that yesterday, I wouldn't have taken the long lunch. And  
25 I specifically asked yesterday for that very reason. I was

1 concerned that we would take the long lunch, and then somebody  
2 would come up and say, "We need to leave early." So I asked  
3 yesterday if working until 5:00 or 5:30 would work, and nobody  
4 said a word. So we will -- I am not saying that time, we will  
5 find a time, but we are not breaking at 5:00.

6 MR. DRATEL: Thank you, Your Honor.

7 MR. JACKS: Judge, you admitted Defense Exhibit No.  
8 993, which is that DVD of the pantry, the HLF pantry, and we  
9 have an additional objection to the audio portion of that, and  
10 we would object to that as hearsay. And I believe, just  
11 talking to Mr. Jonas, that that was the way it was admitted  
12 last year. But if the video is admitted, certainly the audio  
13 is hearsay and we would object to that and ask that it only be  
14 admitted -- the video portion be admitted.

15 MR. WESTFALL: And at this time, Your Honor, I was  
16 going to publish a portion of it without sound.

17 THE COURT: Today.

18 MR. WESTFALL: So maybe we can take that matter up  
19 later on.

20 And I am also going to move for the admission of two  
21 other videos, a little portion of those, and I am going to do  
22 those without sound also.

23 THE COURT: Okay. Do you have those exhibit  
24 numbers?

25 MR. WESTFALL: She has them right there. They are

1 Defendants' No. 979 and Defendants' No. 984. And No. 984 is  
2 the video of Jordan. No. 979 is the video of Albania, Kosovo.  
3 Both of them have Abdul in them, and both of them I intend to  
4 publish without sound.

5 MR. JACKS: Judge, we still object to lack of  
6 foundation and hearsay.

7 MR. WESTFALL: And Your Honor, these are also videos  
8 she reviewed at the same time, and I have spoken with her  
9 about it.

10 Q. (BY MR. WESTFALL) And do you still remember that?

11 A. I recall seeing them, yes.

12 THE COURT: And you can state what they relate to?

13 THE WITNESS: I can state that Mr. Westfall showed  
14 them to me last year, so I know that they came from the HLF  
15 search warrants, but other than that I don't know what was the  
16 basis underlying them, other than what is on the tape.

17 THE COURT: Okay.

18 Q. (BY MR. WESTFALL) You recognize Odeh is in it?

19 A. I do.

20 Q. And also Dalell Mohamed is in one. You recognize her?

21 A. I do.

22 THE COURT: And these are videotapes?

23 MR. WESTFALL: They were videotapes that they  
24 seized, and I put them on DVDs.

25 THE COURT: Identifying someone from a photograph, I

1 think that is one thing. If you want to try to sponsor a tape  
2 because this is X event or Y event, it needs to be from  
3 somebody that knows it is X event or Y event. Are you saying  
4 the tape itself establishes what it is?

5 THE WITNESS: It has been about a year since I have  
6 reviewed these. On the HLF pantry opening, the tape itself  
7 does establish what it is.

8 I can't recall on these two. I remember the pictures and  
9 the scenes, but I don't remember exactly what is in it. I am  
10 sorry. I haven't reviewed it in like a year.

11 Q. (BY MR. WESTFALL) Do you remember that the very first  
12 thing you see is a sign that says "Kosovo Relief"? Do you  
13 remember that?

14 A. If you say so I will believe you.

15 Q. And the Jordan one, there is a big sign that says  
16 "Jordan", you know, "Iftar Food Parcel Project."

17 MR. Westfall: It does self-identify what it is and  
18 Odeh is in both of them.

19 THE COURT: Okay. Mr. Jonas?

20 MR. JONAS: I am not sure that Agent Burns just  
21 accepting Mr. Westfall's word is sufficient to lay the  
22 foundation.

23 THE COURT: I mean, you have seen -- Have you seen  
24 these?

25 MR. JONAS: Agent Burns?

1           THE WITNESS: And I haven't seen them since they  
2 were played in last trial, so I have minimal recollection what  
3 is on there.

4           THE COURT: But you are saying that they have that  
5 there?

6           MR. WESTFALL: Yes, Your Honor.

7           THE COURT: All right. I think that will be  
8 sufficient then. Those will be admitted.

9           MR. JACKS: Your Honor, will the sound be admitted?

10          THE COURT: No. He said he wasn't playing them with  
11 the sound.

12          MR. JACKS: I want to make sure if and when they get  
13 back to the jury there is no sound.

14          THE COURT: We will resolve -- We are deferring a  
15 ruling on the sound for now, and just remind me at some point  
16 to take that up.

17          Go ahead and bring the jury in.

18          (Whereupon, the jury entered the courtroom.)

19          THE COURT: Mr. Westfall?

20          MR. WESTFALL: Thank you, Your Honor.

21          At this time, with permission of the Court, I would like  
22 to publish three short video clips.

23          THE COURT: All right.

24          MR. WESTFALL: For the record, I am publishing these  
25 without sound at this time, Your Honor.

1 THE COURT: All right.

2 MR. Westfall: No. 993.

3 (Whereupon, Defendants' Exhibit No. 993 was played,  
4 while questions were propounded.)

5 Q. (BY MR. WESTFALL) Agent Burns, do you see that this here  
6 is the same as that picture of the HLF pantry where Abdul's  
7 office was?

8 A. Yes.

9 Q. Right over on the far left hand side of the screen, do  
10 you recognize that as Abdul Odeh?

11 A. I do.

12 Q. And on the far right hand do you recognize that as  
13 Mohammad El-Mezain?

14 A. I do.

15 MR. WESTFALL: At this time, Your Honor, I would  
16 like to publish a portion of Defendants' 979.

17 THE COURT: Yes, sir, you may do so.

18 (Whereupon, Defendants' Exhibit No. 979 was played,  
19 while questions were propounded.)

20 Q. (BY MR. Westfall) Agent Burns, this is kind of grainy, a  
21 little bit, but you see over here in the right hand part of  
22 the screen?

23 A. I do.

24 Q. Does that look like Dalell Mohmed?

25 A. It is hard to tell. Maybe if we play a little bit more I

1 will get a better picture. Right now I can't really tell who  
2 that is.

3 Q. Dalell Mohmed was like another relief worker that worked  
4 with the Holy Land Foundation. Right?

5 A. She was an employee at the HLF, yes.

6 Q. And she kind of did the relief missions. Also she took a  
7 relief mission to Turkey. You knew that.

8 A. She did travel on behalf of the HLF to foreign countries.

9 Q. Do you recognize her name?

10 A. I do.

11 Q. You recognize the work she did.

12 And then this is Abdul Odeh. Right.

13 A. That is correct.

14 Q. I didn't have you do this because I was still jacking  
15 with my equipment, but this says Kosovo relief Holy Land  
16 Foundation USA.

17 A. That is what it says.

18 Q. Here would be flour, or white bags that could be flour?

19 A. It could be.

20 MR. WESTFALL: Can you give me the elmo?

21 Q. (BY MR. WESTFALL) And this is Defendants' 491, again,  
22 which is already in evidence. And this is -- That is the same  
23 little guy that was working the machine. Do you recognize  
24 him?

25 A. It looks like him.

1 Q. But this is the bread. Did it appear they were making  
2 bread?

3 A. It did.

4 MR. WESTFALL: Your Honor, may I approach?

5 THE COURT: Yes.

6 Q. (BY MR. WESTFALL) I am showing you Defendants' 490. Can  
7 you please tell me at least two of the people in that  
8 photograph do you recognize as being Dalell and Abdul Odeh?

9 A. I see Dalell in this photo but I don't see Mr. Odeh.

10 Q. Oh, that is because he is not there. Do you recognize  
11 Dalell?

12 A. I do.

13 Q. And do you also see the Holy Land Foundation logo?

14 A. I do.

15 Q. Okay.

16 MR. WESTFALL: Your Honor, we move for the admission  
17 of Defendants' 490.

18 MR. JONAS: Same objection.

19 THE COURT: Okay. Same objection. And that is  
20 admitted.

21 Q. (BY MR. WESTFALL) And this here is Dalell?

22 A. That is correct.

23 MR. WESTFALL: At this time, with your permission,  
24 Your Honor, I will publish a short portion of Defendants' 984.

25 THE COURT: All right. Yes, sir. You may do so.



1                   (Whereupon, Defendants' Exhibit No. 984 was played,  
2                   while questions were propounded.)

3       Q.     (BY MR. WESTFALL) Now, you remember we discussed earlier  
4       the trips that Abdul Odeh made to Jordan to work in -- to take  
5       a mission over there.

6       A.     Yes.

7       Q.     And that is Abdul there. Right?

8       A.     That is correct.

9       Q.     Do you see that lady just went over to the table and did  
10      something there before she picked up her bag?

11      A.     I didn't see exactly what she did.

12      Q.     You see they are doing something at the table first and  
13      then going to pick up their bag of food?

14      A.     Yes.

15      Q.     All right. Can you see that?

16      A.     I do.

17      Q.     It appears as though she is putting a thumbprint on a  
18      piece of paper?

19      A.     It does.

20      Q.     Now, in the 500 boxes of materials from the Holy Land  
21      Foundation, you have seen a lot of these forms that have these  
22      fingerprints on them like this. Right?

23      A.     I don't know that I would characterize it as a lot, but I  
24      have seen forms where people have put their thumbprints.

25      Q.     Now, it appears we changed location. Would you agree?

1 A. It appears there is a different setting there, yes.

2 Q. Right. Are they handing their little book to them?

3 A. Yes.

4 Q. Some of these forms have like signatures and some have  
5 the thumbprints?

6 A. I have seen forms with both.

7 MR. WESTFALL: Could I have this again?

8 Q. (BY MR. WESTFALL) Let me show you this one more time.  
9 It is kind of grainy. This right here, if we go out, does  
10 that appear to be a U.N. symbol with the globe in the middle  
11 and kind of light blue?

12 A. I honestly can't tell on this screen. Maybe it is better  
13 on your picture, but here I see just kind of a blue tag with  
14 something in the middle. I can't tell on this one. Do you  
15 have the original of the photo? You can't really tell  
16 anything from --

17 Q. Does that appear to be the same color shade as the U.N.  
18 uses and the little white thing in the middle?

19 A. It could be.

20 Q. You know the Holy Land Foundation did ventures with the  
21 U.N.

22 A. I have seen that they administered aid to some of the  
23 same projects the U.N. was working on, but I have no personal  
24 knowledge that this was one of them.

25 Q. Okay. Agent Burns, thank you.

1 MR. WESTFALL: Your Honor, I will pass the witness.

2 THE COURT: Ms. Cadeddu?

3 MS. CAEDDDU: Thank you, Your Honor.

4 CROSS EXAMINATION

5 By Ms. Cadeddu:

6 Q. Good afternoon, Agent Burns.

7 A. Hi.

8 Q. I would like to talk to you first about a couple of the  
9 exhibits that you looked at on direct examination. Okay?

10 A. Okay.

11 MS. CAEDDDU: I am going to need Government's  
12 exhibits -- This is the Government exhibit Demonstrative  
13 No. 15, page 16, please.

14 Q. (BY MS. CAEDDDU) While we are waiting, Agent Burns, do  
15 you have your list of exhibits that have been admitted?

16 A. I do not.

17 Q. No? You might need that. We will try to muddle through.

18 MS. CAEDDDU: Page 16, please.

19 Q. (BY MS. CAEDDDU) Okay. Agent Burns, this is a chart  
20 that you made. Is that right?

21 A. That is correct.

22 Q. And you made it, I think like some of the others, based  
23 on other documents that are -- that the Government has  
24 introduced. Is that correct?

25 A. That is correct.

1 Q. And I think at the bottom --

2 MS. CADEDDU: If you could enlarge the bottom right  
3 hand corner, please. You can't? Okay. I will just read it  
4 to you.

5 Q. (BY MR. CADEDDU) The bottom right hand corner says --  
6 See Elbarasse Search No. 5, Elbarasse Search No. 7, Elbarasse  
7 Search No. 10, Elbarasse Search No. 31, Secretary of State  
8 Virginia-1, and Elbarasse Search No. 20, Ashqar Search No. 1?  
9 Okay?

10 A. Okay.

11 Q. So I want to take a look at some of those documents.

12 MS. CADEDDU: Could we take a look at Elbarasse  
13 Search No. 5, please? And if we could go to the English, I  
14 think -- I don't have the page, but the first page of the  
15 English translation, please. And if you could enlarge that,  
16 please, the top.

17 Q. (BY MS. CADEDDU) Okay. Agent Burns, this document is an  
18 IAP internal memorandum. Right?

19 A. No.

20 Q. Islamic Action for Palestine internal memorandum?

21 A. It is an international Muslim Brotherhood memo.

22 Q. Okay. It says Islamic Action for Palestine internal  
23 memo, October 1992.

24 A. Correct.

25 Q. And that the date on that, as I said, is October '92.

1 Right?

2 A. Correct.

3 Q. And that document does not contain Mufid Abdulqader's  
4 name. Right?

5 A. Correct.

6 MS. CADEDDU: Elbarasse Search No. 7, please. And  
7 the first page of the English translation, if you could.

8 Q. (BY MS. CADEDDU) This document is entitled -- Across the  
9 top of this page it says, "Re: A suggestion to amend the  
10 bylaws of the Central Committee." Right?

11 A. Correct.

12 Q. And the date on that is April 2nd, 1991.

13 A. Correct.

14 Q. Now, Mufid Abdulqader's name doesn't appear in that  
15 document either. Right?

16 A. Correct.

17 MS. CADEDDU: Elbarasse Search No. 10, please.

18 Q. (BY MS. CADEDDU) Okay. Now, this document, the title on  
19 it is "Central Committee organization chart for the year  
20 1991." Right?

21 A. Right.

22 MS. CADEDDU: And if you will please enlarge the far  
23 left portion of that. That is still kind of hard to see.

24 Q. (BY MS. CADEDDU) Can you see that, Agent Burns, on your  
25 screen?

1 A. Yes.

2 Q. Okay. The third one from the bottom there lists Sakhra  
3 Group. Is that right?

4 A. That is correct.

5 Q. But on that page at least, which is page 1, there are no  
6 names of individuals.

7 A. Correct.

8 MS. CADEDDU: If you could turn to page 4 of that  
9 translation, please.

10 Q. (BY MS. CADEDDU) And again this is -- Can you read it on  
11 your screen, Agent Burns?

12 A. I can.

13 MS. CADEDDU: Your Honor, I am going to move over to  
14 this edge, because I am trying to read them at the same time.

15 Q. (BY MS. CADEDDU) And this document contains a lot of  
16 individuals' names, and I think you said that some of them are  
17 repeated. Is that right?

18 A. That is correct.

19 Q. And Mufid Abdulqader's name does not appear on this  
20 document.

21 A. Correct.

22 Q. Now, actually I believe that there are a couple of band  
23 member names that do appear on this document. Isn't that  
24 right?

25 A. Yes.

1 Q. For example, Fawaz Mushtaha?

2 A. That is correct.

3 Q. And he is the guy with the backyard?

4 A. Yes.

5 Q. And Munzer Taleb, his name also appears on this document.  
6 Is that right?

7 A. That is correct.

8 Q. We are going to talk more about them in a minute.

9 MS. CADEDDU: I would like to turn to Elbarasse  
10 Search No. 31, please, and the first page of the English  
11 translation. If you could enlarge it, please.

12 Q. (BY MS. CADEDDU) Okay. Now, this document is entitled,  
13 and I want to read it correctly for you, "An introduction to  
14 the bylaw of the Palestine Committee in America and Canada."

15 A. I see that.

16 Q. And you are familiar with this document. Right?

17 A. That is correct.

18 Q. And this document does not contain Mufid Abdulqader's  
19 name either. Right?

20 A. That is correct.

21 Q. Now, could we -- There was -- There is actually an  
22 exhibit listed on the page that we started with, the diagram  
23 that you created, and I read the bottom right hand portion  
24 that talks about which exhibits are included. There was one  
25 on there that is Elbarasse Search No. 20. And we are not

1 going to talk about that today, because my understanding is  
2 from my review that that is not in evidence.

3 So let's move on to Ashqar Search No. 1, please. And  
4 this is -- And I should have written down the page number for  
5 this. There is page number that has "Palestine Section,  
6 important phone numbers." If you could page to that.

7 A. It is page 3, maybe page 4.

8 Q. Okay. And Mufid Abdulqader's name is not listed on this  
9 document either. Is that right?

10 A. Correct.

11 MS. CADEDDU: And so let's go back here to -- If we  
12 could have Demonstrative No. 15 page 16 up again, please.

13 Q. (BY MS. CADEDDU) Okay. Agent Burns, I just wanted to go  
14 through that with you, because I want to understand the basis  
15 for including --

16 MS. CADEDDU: Actually if you could enlarge the  
17 bottom left hand quadrant for me, I would appreciate it. That  
18 is right. You can't enlarge it.

19 Q. (BY MS. CADEDDU) Do you see Mufid Abdulqader's picture  
20 in the bottom?

21 A. I do.

22 Q. And his picture appears under the name Sakhra Band.  
23 Right?

24 A. It does.

25 Q. So you have put him there because you know that he is a



1 member of the Sakhra Band.

2 A. Based on all the videotapes we have shown here, yes.

3 Q. Right. But his name doesn't appear in any of the  
4 documents that are listed here as the source documents.

5 A. Not in the documents, no.

6 Q. Okay. And there are actually a whole large number of  
7 band members who have been involved with the band over the  
8 course of its history. Isn't that right?

9 A. During this time period I think maybe there were five or  
10 six band members.

11 Q. Okay. Well, I would like to actually talk to you about  
12 the band members who have at one time or another been a part  
13 of the band, and you can identify for me those whose names you  
14 can recollect. Okay?

15 A. Okay.

16 Q. So we have Fawaz Mushtaha, of course. We know he was  
17 involved.

18 A. Correct.

19 Q. And we have seen him in some of the videos. Is that  
20 right?

21 A. Yes, we have.

22 Q. I am sorry. I am so cold, my lips are numb and I can't  
23 talk.

24 And Munzer Taleb is another band member whose name you  
25 recognize?

1 A. That is correct.

2 Q. And we have seen him in some of the videos also?

3 A. We have.

4 Q. And Sammy Hamad. Is that name familiar to you?

5 A. I have heard it, but I would not know his face to put it  
6 with his name.

7 Q. Sure. And I am not going to ask you to identify them,  
8 but do you understand him to be a member of the band also?

9 A. I believe that is correct.

10 Q. How about Kifah Mustapha?

11 A. Yes, he was.

12 Q. As a matter of fact, Kifah Mustapha also worked at one  
13 time for the Holy Land Foundation. Is that right?

14 A. He did. And let me clarify my answer, because I know we  
15 are talking about the band in general, but Al Sakhra Band was  
16 the band's name in the earlier years.

17 Q. Yes. We are going to get to that, I promise.

18 A. Well, just to be clear, I believe Kifah Mustapha was not  
19 a part of that band, but was a part of the band later when it  
20 became Al-Nujoom.

21 Q. So you believe Kifah Mustapha wasn't involved in the  
22 al-Sahkra Band itself?

23 A. He may have been, but I know him to have been part of  
24 Al-Nujoom I have not seen any tapes on him on it as part of Al  
25 Sakhra.

1 Q. Okay. No problem. How about Sabri Sabri?

2 A. I have seen the name in connection with the IAP, but I am  
3 not sure if he was a band member or not.

4 Q. Okay. How about Mahmoud Abu Hashem?

5 A. I don't know that individual.

6 Q. Okay. Ibrahim Albers?

7 A. I am sorry. Can you repeat that.

8 Q. Sure. Ibrahim Albers.

9 A. I don't know the individual.

10 Q. Nadal el-Las?

11 A. I don't know him.

12 Q. Salah el-Muni?

13 A. I have seen that name before, but I can't recall if it  
14 was in the context of the band or not, so I am not sure about  
15 that one.

16 Q. Okay. How about Amon Dahelrah?

17 A. I don't know him.

18 Q. Abdullah Gabiyen?

19 A. I don't know him.

20 Q. Okay. Perhaps why don't I --

21 MS. CADEDDU: May I approach and I will go through  
22 these?

23 THE COURT: Yes.

24 Q. (BY MS. CADEDDU) Agent Burns, would you take a look at  
25 the list of names over here in the left hand column and see if

1 you recognize any of those as having been associated with  
2 al-Sahkra?

3 A. Okay. And again, not to say that they are not. I am  
4 just telling you that I don't recognize these names.

5 Well, I know that -- You have Mohamed Abu Roth up here.  
6 That is Mohamed Musphaka that we identified in one of the  
7 videotapes. But again, he appeared in the later years, so I  
8 think technically the band had changed its name to Al-Nujoom  
9 at this time. I have not seen him perform with Al Sakhra in  
10 the early years.

11 Let me see the other names. I don't recognize these  
12 other names.

13 Q. Okay. And would you take a look at this column, the  
14 column on the right. That actually comes from the Government  
15 exhibit, and I can tell you which one it is. It is the --

16 A. Okay.

17 Q. HLF Search No. 147. That is actually a document that you  
18 rely on in the summary for Mufid Abdulqader that talks about  
19 an IAP convention.

20 A. Okay.

21 Q. Do you recognize any of those names?

22 A. I don't know who any of these individuals except for  
23 Abdulqader, depending on the exhibit. I would need to look at  
24 the context, but I presume since we are in this context it is  
25 Mufid Abdulqader. And I would like to look at the document,

1     because there may be a couple of others that I recognize. But  
2     in this form, I don't recognize the other individuals.

3     Q.    Okay. Actually let's take a quick look at that form.  
4     Let's take a quick at Government's Exhibit HLF Search No. 147,  
5     please. That is the one I was referring you to.

6                 MS. CADEDDU: And if you could enlarge the section  
7     -- I believe the names start at line 7 through maybe 2.

8     Q.    (BY MS. CADEDDU) Can you see that Agent Burns?

9     A.    I do.

10    Q.    Okay. And this is the exhibit I was talking about  
11    before. Do you recognize any of those names as being involved  
12    with the Al Sakhra Band?

13    A.    Again, we have No. 9 which would be Mufid Abdulqader, and  
14    then two names below that is Monzer who is Munzer Taleb that  
15    we discussed. No. 5, I don't know how they have this  
16    numbering system done, but No. 5 is Kifah, which would be the  
17    HLF representative and band member Kifah Mustapha. And if we  
18    can scroll down the page a little bit, or I guess this doesn't  
19    scroll.

20    Q.    I think those are actually all the names. So would you  
21    say that Kifah Mustapha would be another name? Or that is the  
22    one you said was associated with Al-Nujoom. Is that right?

23    A.    I know him to be have associated with Al-Nujoom. He may  
24    have had affiliation a with Al Sakhra but I haven't seen it.

25    Q.    So it would be fair to say that to list -- That there are

1 other names that ought to be listed under the Al Sakhra Band.

2 It is not a band of one. Would you agree with that?

3 A. I can't base that on this document just because this is  
4 for a document about an IAP convention. I know that --

5 Q. Agent Burns, I am sorry. That was a very bad question.  
6 Let me start over again because I think I am overcomplicating.

7 Based on the documents that we have just gone through, I  
8 was comparing those with the Demonstrative No. 15, page 16,  
9 and you had Mufid Abdulqader's name listed under the Al Sakhra  
10 Band. There were a number of band members under the Al Sakhra  
11 Band umbrella.

12 A. As I have stated, I base my answer on the videotapes that  
13 I have seen of Al Sakhra Band, and there were generally five  
14 to six people in Al Sakhra Band.

15 Q. Okay. That is what I was looking for. So in other  
16 words, Mufid Abdulqader's name is on that chart because he was  
17 one of at least five or six other band members during that  
18 time. Is that right?

19 A. His name is on the chart because he was a band member and  
20 he is one of the Defendants in this case.

21 Q. I understand. But there are other members of the band.

22 A. Correct.

23 Q. Okay. Now, let's --

24 MS. CADEDDU: Thank you. Actually let's keep this  
25 one up, if you don't mind. Let's take a look at this exhibit

1     again.   This is HLF Search No.   147.   And I would like to  
2     actually -- Do you have the Mufid summary chart over here?

3     Q.     (BY MS. CADEDDU)   All right.   Can you see this, Agent  
4     Burns?

5     A.     I can.

6     Q.     I hope I can see you after I put it up.   Okay.   So just  
7     to reorient all of us, this is an exhibit that you put in as a  
8     demonstrative exhibit as examples of Mufid Abdulqader's  
9     activities as a band member and then as a Holy Land Foundation  
10    volunteer.   And you have done this in a chronological order.  
11    Is that correct?

12    A.     Correct.

13    Q.     And then over here you have the exhibits that you are  
14    referring to.   Is that right?

15    A.     Correct.

16    Q.     And in 1988, which is the first entry that you have,  
17    these exhibits that you are referring to over here are videos.  
18    Is that correct?

19    A.     That is right.

20    Q.     And then we go down and we have -- I am not sure that  
21    this is admitted yet, but we have the Philadelphia meeting  
22    which we will get to, and then the entries all the way to -- I  
23    believe it is all to the end of 1996, these are all  
24    videotapes.   Is that correct?   Can you see it?

25    A.     Yes.   That is correct.

1 Q. I know it is kind of far away. And then below 1996  
2 starting about here, this is documentary evidence. Is that  
3 right?

4 A. Documentary, and there are telephone calls.

5 Q. Okay. Documents and telephone calls starting with 1997.  
6 Right?

7 A. Correct.

8 Q. And so 1995-1996 is approximately when Mufid Abdulqader  
9 moved to Dallas from Oklahoma City. Correct?

10 A. That is correct.

11 Q. Okay. So let's take a look -- I think HLF Search No. 147  
12 is -- We are going to have to go all the way down to the  
13 bottom here. It is referred to IAP convention, \$2,721  
14 attributed to Mufid Abdulqader. Do you see that?

15 A. I do.

16 MS. CADEDDU: Let's take a look at HLF exhibit 147,  
17 please. Could you actually pull out on the whole exhibit for  
18 me for a second, please? Okay.

19 Q. (BY MS. CADEDDU) Now, this document doesn't have a title  
20 at all, does it, Agent Burns?

21 A. It does not.

22 Q. Okay. And no signature or anything like that on it?

23 A. That is correct.

24 Q. And it appears to be a chart of expenses associated with  
25 a band. Is that right?



1 A. Actually I don't know if it is expenses or not. That is  
2 why we put the word "attributed" on there. I don't know if  
3 these are expenses or amounts raised. It just has the column  
4 amount, so I wouldn't want to guess as to what those columns  
5 in the amount column represent.

6 Q. Sure. So you are not actually really sure what the chart  
7 represents, but Mufid Abdulqader's name appears there and it  
8 appears there are other band members listed there, too.  
9 Right?

10 A. That is correct.

11 Q. Okay. And down at the bottom here it says -- It makes  
12 reference to an IAP convention '97.

13 A. It does.

14 Q. Do you see that?

15 A. I do.

16 Q. And then it also talks about Isra band wedding paid  
17 through Al-Nujoom and taken back. Do you see that?

18 A. I do.

19 Q. And total expenses through the year--office, phone,  
20 compensation--and it lists that number as \$29,108. Do you see  
21 that?

22 A. I do.

23 Q. Now, there is also a notation here "tickets were  
24 purchased on my credit card." Do you see that?

25 A. I do.

1 Q. Up above that there is a line that says "total expenses  
2 that were put on Kifah credit card, namely tickets," and has  
3 an amount of \$4,082.

4 A. I see that.

5 Q. Then down at the bottom underneath where it says "tickets  
6 were purchased on my credit card," there is an amount it looks  
7 like \$4,276, and then it shows separate amounts added  
8 together, and one of those is \$4,082 Do you see that?

9 A. I do.

10 Q. So could it be that this is something that was produced  
11 by Kifah Mustapha, since it talked about "my credit card" and  
12 has that same number?

13 A. It could be. I believe this document, if we scroll down,  
14 came from the HLF Chicago office.

15 Q. So Kifah Mustapha actually worked at the HLF Chicago  
16 office.

17 A. That is correct.

18 Q. Actually, as you said, Kifah Mustapha was a band member.  
19 Are you aware of the fact that he managed the Al-Nujoom Band  
20 in the 1997 time period?

21 A. I know that he was a part of the Al-Nujoom. I don't know  
22 if he was a manager or not.

23 Q. Okay. And you also know that the Al-Nujoom Band, and  
24 before that the Al Sakhra Band, were managed for a time by  
25 Fawaz Mushtaha. Right.

1 A. I know that Fawaz Mushtaha managed Al Sakhra at some  
2 point. I don't know if he managed Al-Nujoom or not.

3 Q. Okay. And then is it your understanding that Munzer  
4 Taleb took over management of the band at some point in the  
5 later years?

6 A. I don't know that.

7 Q. But you know Mufid Abdulqader began managing the band in  
8 2000.

9 A. I don't recall that. Maybe I knew that at one point, but  
10 I don't remember it now.

11 Q. All right. Fair enough. Okay.

12 MS. CADEDDU: Let's take a look now if we can at HLF  
13 Search No. 15, please.

14 Q. (BY MS. CADEDDU) And Agent Burns, this is actually an  
15 invoice by Al-Nujoom Band. I think it is one of the ones on  
16 your list here, the summary list for Mufid Abdulqader.

17 A. It is.

18 Q. Okay. And this is an invoice that dates from September  
19 1st, 1998. Does that look right?

20 A. Correct.

21 Q. And that invoice lists a number of band members who  
22 include Kifah, Monzer, Mufid, and Sabri. Do you see that?

23 A. I do.

24 Q. And do you see the bill to address up at the top? Not  
25 the bill to address; the address above the bill to address,

1 the address that is attributed to Al-Nujoom there?

2 A. I do.

3 Q. And do you recognize that address to be Munzer Taleb's  
4 address at the time?

5 A. I don't know if it is or not. It may be.

6 Q. Now, the band -- You are aware that the band was hired to  
7 perform at a number of different cultural festivals. Right?

8 A. I know that they did perform at different events.

9 Q. Okay. So an IAP festival, a MAYA festival?

10 A. Yes. They performed at a lot of those.

11 Q. Okay. And they also performed at weddings and  
12 graduations.

13 A. I know that they did perform at weddings. I don't know  
14 about graduations.

15 Q. And that they put out music CDs and sold those.

16 A. I have heard that, but I have not seen any myself.

17 Q. I can get you some if you like.

18 Al Sakhra, the name of the band, what do you understand  
19 that to mean?

20 A. I have not been told by a translator what it means. I  
21 have heard that it means the rock, but I don't know that for  
22 sure.

23 Q. Okay. And you don't know what that would be a reference  
24 to? What it would mean beyond the words?

25 A. What Al Sakhra means beyond --

1 Q. What the significance of the words is?

2 A. No.

3 Q. Okay. Now, the band changed its name, I think you said  
4 at some point, and that would have been around 1994. Right?

5 A. I think that is correct.

6 Q. And actually I know you don't have the exhibits. We can  
7 take a look, and we will in a little bit, at one of the  
8 transcripts, and you can see in the transcripts of the videos  
9 where the band name changes from Al Sakhra to Al-Nujoom.  
10 Right?

11 A. You can see the difference in the videos they announce  
12 the band's name.

13 Q. So that would be how you would conclude that the band  
14 changed its name?

15 A. That is correct.

16 Q. And do you know what Al-Nujoom means?

17 A. I don't.

18 Q. Now, yesterday you talked a little bit about Baker  
19 Wiretap No. 6. That is -- Just to reorient you, that is a  
20 conversation between Mufid and Akram Mishal from July of 1998.  
21 Do you remember talking about that call?

22 A. I do.

23 Q. Okay. And Akram Mishal is actually an HLF employee at  
24 that time. Right?

25 A. He was.

1 MS. CADEDDU: And could we take a look at Baker  
2 Wiretap No. 6, page 2, please?

3 Q. (BY MS. CADEDDU) And I think you made a reference --

4 MS. CADEDDU: Your Honor, I am sorry. This is just  
5 so hard it is over here. I can't read it.

6 THE WITNESS: I don't believe the transcript on the  
7 screen is the conversation you are referring to.

8 Q. (BY MS. CADEDDU) I think you are correct.

9 MS. CADEDDU: Okay. Can you go to the next page,  
10 please?

11 Q. (BY MS. CADEDDU) And I may have to do this with my paper  
12 copy because it seems to be a little tough. And you know why?  
13 Because I have the wrong number. It is actually Baker Wiretap  
14 No. 7. Let's do it on here. I think this will be easier.

15 And I think you made reference to this transcript, and so  
16 I would like to read a little bit of this with you. I think  
17 the part you referenced yesterday, Akram --

18 MS. CADEDDU: I am sorry, Your Honor. I am mixed  
19 up. I think I put No. 7 where No. 6 should be, and I think I  
20 put No. 6 where No. 7 should be. I am going to come back to  
21 that later.

22 Q. (BY MS. CADEDDU) You testified yesterday about  
23 interviewing Mufid Abdulqader in 2002. Do you remember that?

24 A. I do.

25 Q. And you asked him how much money that he had raised in

1     that interview. Do you remember that?

2     A. Yes. I asked him how much he raised on, you know,  
3     average per event.

4     Q. Sure. And he told you that it was difficult to estimate  
5     an average amount that he raised, because some of the funds  
6     were in cash and some were in pledges. Is that right?

7     A. Initially he told me that he did not know because he  
8     didn't handle the money. When questioned further, he said  
9     that he -- that some of the money was in cash and some was in  
10    pledges and things like that.

11    Q. And he told you during the interview that he raised an  
12    average of \$10,000 to \$20,000 in cash at fundraising events.  
13    Right?

14    A. He ultimately said that, yes. But he couldn't tell me  
15    what his biggest day was or anything like that.

16    Q. Right. And you actually, after the interview -- One of  
17    the three of you who are in attendance at this interview wrote  
18    up a report of the interview. Is that right?

19    A. Correct.

20    Q. Okay. And that report reflects what happened during the  
21    interview.

22    A. That is correct.

23    Q. And the description of how things went.

24    A. Yes.

25    Q. Okay. And I am going --

1 MS. CADEDDU: May I approach, Your Honor?

2 THE COURT: Yes.

3 Q. (BY MS. CADEDDU) Agent Burns, I would like to ask -- I  
4 am going to ask you to follow along with me as I read this.  
5 In your report you state --

6 MR. JONAS: I am going to object. This report is  
7 not in evidence. It is hearsay. It is not proper to read  
8 from it. She can ask questions about what went on during the  
9 interview --

10 THE COURT: If it is not in evidence, I agree. Is  
11 it in evidence?

12 MS. CADEDDU: No, Your Honor, but the report  
13 reflects something that is certainly in a different tenor than  
14 the tenor that the witness is taking now, so I believe it is  
15 impeachment.

16 THE COURT: I will have to take a look at it. Let  
17 me take a look at it. Come on around.

18 (The following was had outside the hearing of the  
19 jury.)

20 THE COURT: Okay. What is this?

21 MS. CADEDDU: Okay. This is the FBI 302, and in it  
22 they don't -- she doesn't talk about how he lied or he had to  
23 be further questioned. It is just sort of a general very  
24 benign discussion of how the money was raised. It is  
25 consistent but without the tone that it was a lie, and so I



1 just want to --

2 THE COURT: Consistent with what?

3 MS. CADEDDU: It is inconsistent with her testimony  
4 that he lied and that he had to be pushed and all of that. I  
5 believe the way it is written in here shows that it was just a  
6 conversation rather than, you know -- Agent Burns was making  
7 it out that he was mendacious and he had to be pushed and he  
8 lied, and so I want to say what it is that he said during the  
9 interview as it was written contemporaneously.

10 THE COURT: And you want to read just this section  
11 here.

12 MS. CADEDDU: Just this part here that she has  
13 testified to. I mean, she has testified to the substance of  
14 it, but not the way it came out.

15 MR. JONAS: I think this is improper. She can  
16 question her, "Well, isn't it a fact that you had asked him,  
17 he answered truthfully after several" -- I mean, I think the  
18 question can be asked without having to read from the 302.  
19 This is hearsay. This is just another way of trying to get in  
20 a statement of the Defendant without him getting on the stand.

21 MR. JACKS: Judge, another issue is that there were  
22 three people that attended the interview, three agents. If  
23 you will look on the front --

24 MS. CADEDDU: There are, but she signed it, and she  
25 testified at the first trial that she has to she reviewed it

1 and said that it was correct. I mean, it is -- It doesn't say  
2 who wrote it, and I can impeach her on this.

3 MR. JACKS: That is not the way to impeach a  
4 witness.

5 THE COURT: You can impeach, but normally you don't  
6 just -- Without laying a predicate, you just don't start  
7 reading. You have to call the party's attention to it. And  
8 your position is that it is inconsistent with her testimony,  
9 this is inconsistent with her testimony here?

10 MS. CADEDDU: Yes, I am making that contention,  
11 because it doesn't say that he initially lied and that he had  
12 to be pressed. It just says that he was questioned and this  
13 is what he said, and I want to say exactly how was that.

14 THE COURT: Well --

15 MS. CADEDDU: Every impeachment I have ever done, I  
16 have said, "Okay. You said X. Isn't that correct?" I mean,  
17 you know, for impeachment you read something that someone has  
18 approved of before that is inconsistent with what they are  
19 testifying to.

20 THE COURT: Generally you call their attention to  
21 what it is that is supposed to be inconsistent, and if they  
22 acknowledge -- she denies it is inconsistent, then you can get  
23 into that.

24 MS. CADEDDU: Perhaps I am being inartful because I  
25 am tired and frozen.

1           THE COURT: Just starting to read it, I think that  
2 is improper just to begin to read it. I think you have to  
3 call the witness' attention to whatever it is you think is  
4 inconsistent, and then ask her, "In these reports it doesn't  
5 state that he lied," or whatever it is you think is  
6 inconsistent. But let her read it and then if she disagrees  
7 with you, then I think you can get into that.

8           MS. CADEDDU: She has to read the impeachment before  
9 I can cross --

10          THE COURT: You call her attention to it first, her  
11 report, and in her report that she didn't state that he lied  
12 and she had to prod him, or after further questioning. Then  
13 once you call her attention to the report -- You don't have to  
14 show it to her, but you have to call attention to what it is  
15 you are asking where she wrote it. And then --

16          MS. CADEDDU: I think I will just go about this a  
17 different way because I am tired.

18          THE COURT: We all are.

19          (The following was had in the presence and hearing  
20 of the jury.)

21 Q. (BY MS. CADEDDU) Okay. We are going to do this a  
22 different way, Agent Burns.

23 A. Okay.

24 Q. And I just want to go back for a second to your testimony  
25 that you gave just a few minutes ago and clarify.

1           You interviewed Mufid Abdulqader in 2002. Right?

2       A.    That is correct.

3       Q.    And it was a pretty lengthy interview.

4       A.    It was.

5       Q.    In his attorney's office; not my office, a different  
6       attorney.

7       A.    Correct.

8       Q.    And during that interview you asked him about a number of  
9       subjects.

10      A.    That is correct.

11      Q.    One of those subjects was work that he had done with the  
12      band.

13      A.    After looking at the 302, I don't believe that was a  
14      topic of the interview. I think afterwards he joked about  
15      some CDs and some issues like that about the band. But after  
16      looking at the 302 I don't believe that we questioned him as a  
17      result of the interview or as part of the interview about the  
18      band.

19      Q.    Okay. But you did question him about his volunteer work  
20      with the Holy Land Foundation.

21      A.    That is correct.

22      Q.    And you asked him how much money he raised. Right?

23      A.    Yes.

24      Q.    And he told you it was difficult to estimate an amount  
25      that he raised. Right?

1     A.    He stated originally, when we first asked him the  
2     question, that he didn't really know because he didn't handle  
3     the money.

4     Q.    Okay.  And then eventually he told you, when you asked  
5     him again, that he didn't know -- Let's see.  It was difficult  
6     to estimate the amount that was raised because not all of it  
7     came in at that time.  Right?

8     A.    Right.  We talked about the pledges; some of it came in  
9     pledges and some of it came in cash.

10    Q.    All right.  So some of it came in in cash that was  
11    received on the spot.  Right?

12    A.    Correct.

13    Q.    And then some of it came in pledges, and people would  
14    send their money in I guess later on.

15    A.    Correct.

16    Q.    And sometimes people would call the Holy Land Foundation  
17    after a fundraiser and would donate over the phone with a  
18    credit card.

19    A.    Correct.  Like we saw reference to in a conversation the  
20    other day.

21    Q.    Okay.

22           MS. CADEDDU:  In fact, if we can take a look at  
23    that, Abdulqader Wiretap No. 1, please, at page 2.

24    Q.    (BY MS. CADEDDU)  Okay.  Now, this is actually a  
25    conversation between Mr. Abdulqader and Ibrahim Khalil.

1 A. That is right.

2 Q. And we know that from the front page. And you recognize  
3 this conversation. Right?

4 A. That is correct.

5 Q. And Ibrahim tells Mufid up here at the top, "We hear good  
6 news about you." Right?

7 A. That is right.

8 Q. And then what Ibrahim tells Mufid is that a woman has  
9 called the Holy Land offices and donated money. Right?

10 A. That is correct.

11 Q. And that happened as a result of one of Mufid's  
12 fundraising speeches that he gave.

13 A. Correct.

14 Q. And so she called after the fact and donated with a  
15 credit card.

16 A. That is correct. I can't recall if this says she donated  
17 with a credit card, but she did call after the conference to  
18 the Holy Land Foundation office and made her donation. It may  
19 say credit card, but I don't remember that.

20 Q. I think it does on the next page, but we will get to that  
21 in a second.

22 So Ibrahim tells Mufid that she said she just heard a  
23 sermon and she was very impressed, and she would like to  
24 donate. Right?

25 A. That is correct.

1 Q. And then Mufid asks how, "Much did she donate?" Right?

2 A. Yes.

3 Q. Because that is not a donation that came in at the time  
4 of the original sermon. Right?

5 A. Correct.

6 Q. And Ibrahim is joking around with him and says, "Well,  
7 what do you think?" And kind of makes him guess. Right?

8 A. Right.

9 MS. CADEDDU: Can we go to the next page, please?

10 Q. (BY MS. CADEDDU) And then you can see there, I think it  
11 is the fourth line down, that Ibrahim finally tells Mufid that  
12 she donated \$5,000. Right?

13 A. Correct.

14 Q. And I think she says -- I thought she said with a credit  
15 card, but she may not have. That could have been a pledge  
16 that she mailed in. Right?

17 A. I don't recall offhand how she ultimately was supposed to  
18 send the money.

19 Q. Okay.

20 MS. CADEDDU: And if we can turn to page 4 of this  
21 same exhibit, please.

22 Q. (BY MS. CADEDDU) Okay. And this is a continuation of  
23 the same conversation. Right?

24 A. Correct.

25 Q. And Mufid is telling Ibrahim that he received \$17,000 in

1 cash at the fundraising. Right?

2 A. Correct.

3 Q. And then somebody donated -- someone donated \$5,000,  
4 which he said he would mail. Do you see that on I think it is  
5 the fifth line?

6 A. I do.

7 Q. And then there were four people who were going to donate  
8 \$1,000, and they said they would mail their money in after the  
9 fact. Right?

10 A. Correct.

11 MS. CADEDDU: Could we take a look at page 5,  
12 please?

13 Q. (BY MS. CADEDDU) Now, this conversation is actually  
14 talking about -- it is the same fundraising trip, but it is a  
15 different locale. Is that right?

16 A. That is right.

17 Q. So this was a Boston fundraiser?

18 A. The topic on this page, yes.

19 Q. Yes. And so Mufid flew up to the northeast, and then  
20 went to a couple of different cities and raised money for Holy  
21 Land over I think a weekend or something like that. Is that  
22 your understanding?

23 A. Yes.

24 Q. And this one was in Boston. Right?

25 A. That is correct.



1 Q. And there is a conversation -- Mufid makes a reference,  
2 "Did the guys tell you that they take 15 percent?" Do you see  
3 that?

4 A. I do.

5 Q. And what he is talking about there is that when Mufid  
6 raised the money in Boston, the place where he did that kept  
7 some sort of a commission of 15 percent. Right?

8 A. Correct.

9 Q. And in fact, they didn't give Mufid the cash to bring  
10 back at all for Holy Land. Isn't that right?

11 A. They gave him a check, according to this.

12 Q. Right. They gave him a check less the 15 percent.  
13 Right?

14 A. Based on this, yes.

15 Q. Okay. I would like to turn --

16 MS. CADEDDU: Thank you very much. I am done with  
17 that. I need another summary here.

18 Q. (BY MS. CADEDDU) Can you see this, Agent Burns?

19 A. Yes.

20 Q. All right. This right here is what you have put in as  
21 the Philadelphia meeting summary. Right?

22 A. Correct.

23 Q. Okay. And perhaps I should put it up. It is hard to  
24 see.

25 THE COURT: That is fine.

1 Q. (BY MS. CADEDDU) Okay. And on this chart, this is how  
2 you summarized the records that you have that relate to the  
3 Philadelphia conference. Right?

4 A. Correct.

5 Q. And you have over here Mufid Abdulqader's name listed --  
6 I think you say he is the third one down on the list?

7 A. Correct.

8 Q. And here you have him listed with Al Sakhra Band, and you  
9 also have Holy Land Foundation, HLF, noted right here.

10 A. That is correct.

11 Q. Do you see that? And I guess that would be because the  
12 Al Sakhra Band had performed at Holy Land fundraisers.

13 A. The reason the HLF is on there is because he ultimately  
14 became, you know, a fundraiser for the HLF.

15 Q. Okay. So it is not that he was actually a fundraiser for  
16 Holy Land at the time the Philadelphia meeting took place.  
17 This is on there because of his later association.

18 A. Correct.

19 Q. Okay. And then we have got the Al Sakhra Band here.  
20 Right?

21 A. Correct.

22 Q. And then we don't have any AMEX flight records that  
23 relate to him.

24 A. Not from the Holy Land AMEX records that we introduced.

25 Q. Okay. And then we have Marriott Hotel records, and we

1 will talk about those in just a second.

2 A. Correct.

3 Q. And then his name is not identified as one of the  
4 speakers at the Philadelphia conference.

5 A. That is correct.

6 Q. Okay. There are no surveillance photos of him.

7 A. That is correct.

8 Q. And then his name is also not listed in the Ashqar  
9 planning meeting.

10 A. That is right.

11 MS. CADEDDU: Okay. I would like to take a quick  
12 look, if we could, at Ashqar Wiretap No. 1, page 4, please,  
13 which is the planning call. And could we enlarge actually the  
14 top half of that document, please?

15 Q. (BY MS. CADEDDU) Okay. Now, at this point in the  
16 conversation Omar and Shukri are talking about how to organize  
17 the meeting and the numbers of people who are going to be  
18 included. Right?

19 A. Right.

20 Q. And so here you see that Shukri says, "I mean, if the  
21 number exceeds a certain limit, I think there will be a  
22 counterbalance. I mean, if there will be no -- if there is 30  
23 people, each one wants to speak for five minutes, it will not  
24 work. I am afraid it will turn into a conference." Do you  
25 see that?

1 A. Yes.

2 Q. And is Shukri says, "A forum or an conference. What we  
3 want is a session, I mean, it is a session, a session or two,  
4 especially that they will be coming from the festival." Do  
5 you see that?

6 A. I do.

7 Q. Okay. Thank you.

8 MS. CADEDDU: Now I would like to take a look at the  
9 Marriott records, please, and I would like to start with page  
10 4 of those.

11 Q. (BY MS. CADEDDU) Okay. Now, if you -- Can you see that,  
12 Agent Burns?

13 A. I can.

14 Q. This one looks pretty clear are. This looks as if the  
15 form has been preprinted. You can see there it says Hasan  
16 Sabri. Do you see that?

17 A. I do.

18 Q. And it has an address 1000 West Spring Valley 237,  
19 richardson, Texas, 75080. Is that right?

20 A. Correct.

21 Q. And then next to the preprinted Hasan Sabri, it is  
22 handwritten in Maghawri. Is that correct?

23 A. Correct.

24 MS. CADEDDU: Could we take a look, then, at page 5,  
25 please?

1 Q. (BY MS. CADEDDU) And this one again -- It looks similar  
2 to the last page that we looked at. Right? With Hasan  
3 Sabri's name preprinted on the form. Right?

4 A. It is printed on the form. I don't know at what point  
5 the hotel printed these up.

6 Q. Well, it is printed. It is not handwritten.

7 A. Correct.

8 Q. And it has got the same address--1000 West Spring Valley  
9 237, Richardson, Texas. Is that right?

10 A. Yes.

11 MS. CADEDDU: If we can take a look at page 8,  
12 please.

13 Q. (BY MS. CADEDDU) And page 8 it looks like is actually  
14 two forms, and there is -- Again, they both have Hasan Sabri's  
15 name printed and the same 1000 West Spring Valley, Richardson,  
16 Texas address on each of these two slips. Do you see that?

17 A. I do.

18 Q. Okay.

19 MS. CADEDDU: Could we take a look now, please,  
20 at -- That was page 8. Can I look at page 9, please?

21 Q. (BY MS. CADEDDU) Same deal here. Right? Hasan Sabri,  
22 1000 West Spring Valley, and then there is a handwritten name  
23 in there Haitham Maghawri.

24 A. Correct.

25 MS. CADEDDU: Could we look now at page 6, please?

1 Q. (BY MS. CADEDDU) Okay. This form, and I think we looked  
2 at this, I can't remember if it was yesterday or a couple of  
3 days ago, this one looks different from the ones that we have  
4 been looking at. Right? It has got a handwritten  
5 name -- Well, let me do this. The name is handwritten in.  
6 Right?

7 A. Correct.

8 Q. And it says M. Abdulqader. Do you see that?

9 A. It does.

10 Q. And the room number is handwritten in. Right?

11 A. Yes. I think some of the other ones had the room number  
12 written in, but the names were printed.

13 Q. Okay. And there is an address that is actually listed on  
14 here and it is something like 929 St. Paul. Right?

15 A. I see that.

16 Q. And do you understand that to be Munzer Taleb's address  
17 in Dallas?

18 A. I don't know.

19 Q. Okay. Well, you know that Mufid Abdulqader didn't live  
20 in Dallas at the time. Right?

21 A. That is correct.

22 Q. He lived in Oklahoma.

23 A. That is correct.

24 Q. And Munzer Taleb is one of the band members we talked  
25 about before. Is that correct?

1 A. That is correct.

2 Q. Okay.

3 MS. CADEDDU: Back to the summary chart for a  
4 second.

5 Q. (BY MS. CADEDDU) All right. Now, we talked a little bit  
6 about some of the entries down here. I want to kind of turn  
7 our attention to the videos, doing this kind of in reverse to  
8 the videos that also formed the basis for this chart.

9 A. Okay.

10 Q. Okay? The first video that is listed there at the top of  
11 the chart is Mushtaha Search No. 7.

12 A. Okay.

13 Q. Is that right?

14 A. It is.

15 Q. Okay. And that I believe you identified for us already,  
16 and it says there on the chart that this video dates from  
17 1988. Is that correct?

18 A. Let me check my cheat sheet to confirm that that is  
19 correct. Yes, that is the date we were able to determine was  
20 1988.

21 Q. And it is also -- This is in date order, and so the date  
22 is also indicated there on the left.

23 A. Correct.

24 MS. CADEDDU: And could we take a look,  
25 please -- Could you play for me Mushtaha Search No. 7-B? And

1 I am going to tell you when to stop the video.

2 Your Honor, I am afraid the Government doesn't have the  
3 Government's video exhibits here, and so that is --

4 THE COURT: That is where you are.

5 MS. CADEDDU: That is where I am. I apologize for  
6 that. I have them, but not here.

7 THE COURT: Let's break for the day.

8 Also for your planning purposes, we will see you back  
9 Monday morning at 9:00. Please recall the instructions.

10 Next week we will work three days--Monday, Wednesday,  
11 Friday. I have some things to take care of Thursday, and we  
12 will take off Friday.

13 The following Monday, the 13th, is a federal holiday, so  
14 we will have a long weekend in there. I will remind you again  
15 next week, but for planning purposes we will be here Monday  
16 Tuesday and Wednesday of next week.

17 I am sorry. That is how tired I am. Monday, Tuesday,  
18 Wednesday, those three days we will be here next week. You  
19 will be off Thursday, Friday, and the following Monday. I  
20 will remind you next week, but I wanted to let you know for  
21 your planning purposes.

22 Have a good weekend. We will see you Monday.

23 (Whereupon, the jury left the courtroom.)

24 THE COURT: Anything we need to address?

25 MR. JONAS: Your Honor, I wanted to address that



1       Illa Falistine No. 1 translation discrepancy issue.

2               THE COURT:   Everybody can be seated.

3               MR. JONAS:   We looked at the one on the Court's  
4       website from the last trial, which is not the one that was  
5       admitted in the last trial.   We gave a copy to our translator  
6       Mr. Shafik.   He says that is not on FBI product.   We don't  
7       know where it came from.   Maybe it did come from us, but if it  
8       came from us we didn't produce it.   It is possible that it  
9       could have been given to us by the person that gave us the  
10      original document, and somehow that one went on the Court's  
11      website instead of the one that was actually admitted in the  
12      last trial and this trial.

13              I think it is completely improper for Ms. Hollander to  
14      ask Agent Burns about the discrepancy to the translation that  
15      we did not create.

16              THE COURT:   And I would agree, if that is the case.  
17      So it is on the Court's website?

18              MR. JONAS:   It is on the Court's website.

19              THE COURT:   And how can you tell that that is not  
20      the one that was admitted.

21              MR. JONAS:   There is a file number on it which is  
22      not an FBI file number.

23              THE COURT:   And I understand, for the record, that  
24      we found some mistakes on that website from the first trial.  
25      We tried to get in there as we were dealing with some of these

1 early motions that were filed, motions for acquittal from I  
2 think Ms. Cadeddu that we were dealing with early on. So we  
3 got on there looking at some of these exhibits, and we knew  
4 that some of them were incorrect. So that is not a completely  
5 accurate, but I am just trying to determine how you know that  
6 this particular exhibit is not --

7 MR. JONAS: Besides the file number, there are other  
8 markings on there that are inconsistent with what the FBI  
9 would do in creating the translation, as well as having shown  
10 it to Mr. Shafik who said that is not his product.

11 And everything we have regarding the exhibit for the  
12 first trial, when we looked up on our documents as well as  
13 some other indicators, all indicate the translation we are  
14 using today is the exact same translation we used last time.

15 And for the Court, I think all we did was just take that  
16 exhibit and slap a new sticker on it. In fact, I am being  
17 told on ours you can see the old exhibit sticker underneath  
18 it.

19 MS. HOLLANDER: Well, ours has the Government's  
20 exhibit sticker on it, and I don't know how that could have  
21 gotten on it unless it was the Government's. And last time  
22 they actually introduced the whole -- We had an issue about  
23 Illa Falistine No. 1, and I believe they introduced a large  
24 portion of it than they did this time. But it had the  
25 Government sticker on the front, and it is the one that we

1 have always believed was the one that was admitted.

2 I mean, I would like to see what it is that they have  
3 found, and perhaps Mr. Jonas could explain to me why this one  
4 with the Government's exhibit sticker on it is not a  
5 Government product. But it just seems odd to me it has the  
6 Government's identification from that case on the front page.

7 MR. JONAS: Your Honor, it is very possible that the  
8 original exhibit in Arabic was the one that we used at trial,  
9 and somehow there is another translation that was attached to  
10 it that went to the Court. Like I said, it could have been  
11 the translation that came to us from a third party, and that  
12 that somehow was the one that went for the website, but was  
13 not the one --

14 THE COURT: What third party was doing the  
15 translation?

16 MR. JONAS: If Your Honor will recall, there was  
17 testimony about the Boim lawsuit that the HLF was sued at. In  
18 fact, that is where the depositions came from. That document,  
19 Illa Falistine No. 1, was a document that was shown to the  
20 Defendant Shukri Baker and discussed in his deposition. And  
21 so with the deposition we got a copy of Illa Falistine No. 1.  
22 So I am assuming, considering that, that the translation that  
23 is on the Court's website is a translation that we received  
24 from a third party. I can't say that for sure, but I can say  
25 that from everything that we have seen and being told is it is

1 not an FBI product. It is not what was used in the last  
2 trial.

3 THE COURT: Why don't you get with Ms. Hollander and  
4 show her what you have and what you are talking about in terms  
5 of the markings and the things you are explaining here. It  
6 may be that we need to get the translator Mr. Shafik, get him  
7 on the witness stand and testify at some point.

8 MR. JONAS: He is here if you want to do it right  
9 now.

10 MS. HOLLANDER: I would like an opportunity to look  
11 at this, and not do it right now if we can, Your Honor.

12 THE COURT: All right.

13 MS. HOLLANDER: Because I would like to be able to  
14 sit down, look at this, look at ours, and see where they came  
15 from.

16 THE COURT: Do you have -- Did you get the exhibits  
17 on disk the last time from the Government?

18 MS. HOLLANDER: Yes.

19 THE COURT: And do you still have those? Have you  
20 gone back to look at that?

21 MS. HOLLANDER: Yes.

22 MS. DUNCAN: We do have the disks, Your Honor. We  
23 pulled this off the website, and I haven't compared the  
24 website --

25 THE COURT: Go back and look at your disk and see

1     that, and then get with Mr. Jonas. Maybe you can work it out.  
2     If not, we will have to have a hearing and I will have to make  
3     a decision on it. But see if you can work that out.

4             MS. HOLLANDER: We can look at the ones on our disk.  
5     We just had no reason to think that the one on the website was  
6     not correct.

7             THE COURT: Well, except -- You wouldn't think that,  
8     but we have found mistakes on there. And of course we weren't  
9     involved in that, so I don't have any explanation other than  
10    we found mistakes on the website when we were going back  
11    looking for exhibits for our orders that we were doing on  
12    motions. So we know it is not a perfect list, that website.

13            MS. HOLLANDER: If Mr. Jonas would be in town  
14    tomorrow we can --

15            MR. JONAS: I haven't been home for a while. I was  
16    planning on going home tonight.

17            THE COURT: Why not Monday morning, or if you have  
18    time now, at least let her know what you are looking at.

19            MS. HOLLANDER: If they can give me a copy of what  
20    it is they think was on the website -- what it is they think  
21    was introduced, then I will have that plus the website plus  
22    ours.

23            THE COURT: Okay.

24            MR. JONAS: It is the same thing that is in  
25    evidence. We can print them a copy off the disk we have.

1           THE COURT: So what you are saying is what is in  
2 evidence now is what was introduced the same time.

3           MR. JONAS: It is the same.

4           MS. HOLLANDER: We will look at the disk.

5           THE COURT: All right. And then the issue that  
6 remains still is this chronological order --

7           MS. HOLLANDER: We have -- Tomorrow we are going to  
8 try to figure out what of those six documents, those six parts  
9 we actually -- As I said to you, I want to isolate what is  
10 106. I mean, I wasn't anticipating having to do it as 106,  
11 but I will isolate that so you don't have to read 50 pages,  
12 because we are not going to need to put in 50 pages nor will  
13 50 pages be 106.

14          THE COURT: And that is a separate issue of what  
15 comes in, besides what the Government put in. But then you  
16 are still dealing with this issue of trying to establish the  
17 chronological order, and that is a different issue.

18          MS. HOLLANDER: We will see if we can find the  
19 example --

20          THE COURT: My concern there is, I mean, you have to  
21 find somebody to do it through. Obviously you can't do that.

22          MS. HOLLANDER: I think it will be obvious.

23          THE COURT: Well, yeah. But somebody is going to  
24 have to look at it and then make that determination that it is  
25 obvious or not.

1 MS. HOLLANDER: I mean, it may be that it is going  
2 to have to be a jury decision if nobody knows. They can  
3 read --

4 THE COURT: No. You are going to have to present  
5 some evidence that this is chronological. I mean, you can't  
6 introduce that as your exhibit and not have any evidence to  
7 support what you are saying. There has to be some evidence.

8 MS. HOLLANDER: I think it will be obvious from  
9 reading the transcript.

10 THE COURT: Reading which transcripts?

11 MS. HOLLANDER: Reading the transcript of how a  
12 conversation flows.

13 THE COURT: How it flows? Okay.

14 MS. HOLLANDER: Give me a chance to figure that out.  
15 Otherwise I will figure out some other way.

16 Mr. Jonas admitted theirs are not in chronological order,  
17 so my question is --

18 THE COURT: I think they are saying they don't know  
19 what the chronological order is.

20 MR. JONAS: I tried to put it in order that followed  
21 the logical -- followed the questions I was asking her. I  
22 struggled very hard with trying to come up with a way of  
23 asking the questions regarding the Philadelphia conference in  
24 a manner that flowed instead of saying, "Let's put in a tape  
25 and play what are they saying." So I ordered it that way. I

1     can't say it was chronological order when I first started or  
2     it ended up in chronological order or what.

3             And frankly, Your Honor, I understand Ms. Hollander's  
4     point, but I don't think it makes a difference at the end of  
5     the day.

6             MS. HOLLANDER: I do think it makes a difference.  
7     But let me see if I can figure out a way to make it obvious.

8             THE COURT: Okay. All right.

9             MS. HOLLANDER: And that is what I will try to do.

10            THE COURT: Okay. All right. Be back, then, at I  
11     guess 8:30 Monday morning and we will take up some of these  
12     issues and see where we are.

13                             (End of Day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A  
2 CORRECT TRANSCRIPT FROM THE RECORD OF  
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.  
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES  
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE  
6 COURT AND THE JUDICIAL CONFERENCE OF THE  
7 UNITED STATES.

8  
9 S/Shawn McRoberts

06/05/2009

10 \_\_\_\_\_DATE\_\_\_\_\_  
11 SHAWN McROBERTS, RMR, CRR  
12 FEDERAL OFFICIAL COURT REPORTER  
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